Virginia Department of
Health Professions
Board of Audiology and Speech-Language Pathology

Agenda
Board of Audiology and Speech-Language Pathology
Regulatory Advisory Panel - Telepractice

June 3, 2019
Hearing Room 3
2:00 p.m.

Call to Order – Angela W. Moss, MA, CCC-SLP
- Welcome
- Emergency Egress Procedures

Ordering of Agenda – Ms. Moss

Introduction of Committee Members – Ms. Moss

Public Comment – Ms. Moss
The Board will receive all public comment related to agenda items at this time. The Board will not receive comment on any regulatory process for which a public comment period has closed or any pending or closed complaint or disciplinary matter.

Committee Purpose – Ms. Moss

Discussion Items – Leslie Knachel **Pages 1 – 73**
Use of Telepractice in Audiology and Speech-Language Pathology Practice
- Using telepractice to supervise a provisional licensee
- Guidance documents from the Virginia Boards of Counseling, Dentistry, Medicine, Nursing, Physical Therapy and Social Work (pages 1 – 28)
- Information on Telepractice from Speech-Language-Hearing Association of Virginia (pages 29 – 33)
- Information on Telepractice from American Sppech-Language-Hearing Association (pages 34 – 52)
- Telepractice information from surrounding states (pages 53 – 73)
  - Licensure & regulations (NC, KY, WV, TX)
  - Practice guidelines (SC)
  - Policy statement (NY)

New Business – Ms. Moss

Meeting Adjournment – Ms. Moss

This information is in **DRAFT** form and is subject to change.

Guidance document: 115-1.4

Adopted: August 8, 2008
Revised: November 13, 2015

Virginia Board of Counseling

Guidance on Technology-Assisted Counseling and Technology-Assisted Supervision

The Board's regulations for Standards of Practice (18VAC115-20-130) are prefaced by the following:

The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.

Therefore, the standards of practice set forth in section 130 of the regulations and in the Code of Virginia apply regardless of the method of delivery. The Board of Counseling recommends the following when a licensee uses technology-assisted counseling as the delivery method:

1. Counseling is most commonly offered in a *face-to-face relationship. Counseling that from the outset is delivered in a technology-assisted manner may be problematic in that the counseling relationship, client identity and other issues may be compromised.*

2. *The counselor must take steps to protect* client confidentiality and security.

3. The counselor *should seek training or otherwise demonstrate* expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and security.

4. *When working with a client who is not in Virginia*, counselors are advised to check the regulations of the state board in which the client is located. It is important to be mindful that certain states prohibit counseling by an individual who is unlicensed by that state.

5. Counselors must follow the same code of ethics for technology-assisted counseling as they do in a traditional counseling setting.

Guidance for Technology-assisted Supervision

The Board of Counseling recommends the following when a licensee uses technology-assisted supervision:

1. Supervision is most commonly offered in a *face-to-face relationship. Supervision that from the outset is delivered in a technology-assisted manner may be problematic in that the supervisory relationship, client identity and other issues may be compromised.*

2. *The counselor must take steps to protect supervisee* confidentiality and security.

3. The counselor ***should seek training or otherwise demonstrate*** expertise in the use of technology-assisted devices, especially in the matter of protecting supervisee confidentiality and security.

4. Counselors must follow the same code of ethics for technology assisted supervision as they do in a traditional counseling/supervision setting.

5. The Board of Counseling governs the practice of counseling in Virginia. Counselors who are working with a client *who is not in Virginia* are advised to check the regulations of the state board in which a *supervisee is located*. It is important to be mindful that certain states *may regulate or prohibit supervision* by an individual who is unlicensed by that state.

Virginia Board of Dentistry

Teledentistry

Section One: Preamble.
The Virginia Board of Dentistry ("Board") recognizes that using teledentistry services in the delivery of dental services offers potential benefits in the provision of dental care. The appropriate application of these services can enhance dental care by facilitating communication between practitioners, other health care providers, and their patients, prescribing medication, medication management, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information, and clarifying dental advice. The Virginia General Assembly has not established statutory parameters regarding the provision and delivery of teledental services. Therefore, practitioners must apply existing laws and regulations to the provision of teledentistry services. The Board issues this guidance document to assist practitioners with the application of current laws to teledentistry service practices.
These guidelines should not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method used to enable practitioner-to-patient communications. For clarity, a practitioner using teledentistry services in the provision of dental services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303 and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of teledentistry services as a component of, or in lieu of, in-person provision of dental care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The Board has developed these guidelines to educate licensees as to the appropriate use of teledentistry services in the practice of dentistry. The Board is committed to ensuring patient access to the convenience and benefits afforded by teledentistry services, while promoting the responsible provision of health care services.

It is the expectation of the Board that practitioners who provide dental care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;
- In the case of dentists, properly supervise non-dentist clinicians when required to do so by statute; and
- Protect patient confidentiality.

Section Two: Definitions.
For the purpose of these guidelines, the Board defines "teledentistry services" consistent with the definition of "telemedicine services" in § 38.2-3418.16 of the Code of Virginia. "Teledentistry services," as it pertains to the delivery of dental services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient's diagnosis or treatment. "Teledentistry services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.

Section Three: Establishing the Practitioner-Patient Relationship.
The practitioner-patient relationship is fundamental to the provision of acceptable dental care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship. Where an existing practitioner-patient relationship is not present,[1] a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law.[2] While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.

Specifically, Virginia Code § 54.1-3303(A) provides the requirements to establish a practitioner-patient relationship. *See* Va. Code § 54.1-3303(A).

A practitioner is discouraged from rendering dental advice and/or care using teledentistry services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of teledental services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

Section Four: Guidelines for the Appropriate Use of Teledentistry Services.
The Board has adopted the following guidelines for practitioners utilizing teledentistry services in the delivery of patient care, regardless of an existing practitioner-patient relationship prior to an encounter.

Licensure:
The practice of dentistry occurs where the patient is located at the time teledentsitry services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all

[1] This guidance document is not intended to address existing patient-practitioner relationships established through in-person visits.
[2] The practitioner must adhere not only to Virginia law defining a practitioner-patient relationship, but the law in any state where a patient is receiving services that defines the practitioner-patient relationship.

jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.

Evaluation and Treatment of the Patient:
A documented dental evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

Informed Consent:
Evidence documenting appropriate patient informed consent for the use of teledentistry services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the patient, the practitioner, and the practitioner's credentials;
- Types of activities permitted using teledentistry services (e.g. prescription refills, appointment scheduling, patient education, etc.);
- Agreement by the patient that it is the role of the practitioner to determine whether or not the condition being diagnosed and/or treated is appropriate for a teledentistry encounter;
- Details on security measures taken with the use of teledentistry services, such as encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express patient consent to forward patient-identifiable information to a third party.

Dental Records:
The dental record should include, if applicable, copies of all patient-related electronic communications, including patient-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of teledentistry services. Informed consents obtained in connection with an encounter involving teledentistry services should also be filed in the dental record. The patient record established during the use of teledentistry services must be accessible to both the practitioner and the patient, and consistent with all established laws and regulations governing patient healthcare records.

Privacy and Security of Patient Records and Exchange of Information:
Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using teledentistry services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner

addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Prescribing:

Prescribing medications, in-person or via teledentistry services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via teledentistry services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe medications as part of teledentistry encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Additionally, practitioners issuing prescriptions as part of teledentistry services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

Section Five: Guidance Document Limitations.

Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of teledentistry services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

Virginia Board of Medicine

Telemedicine

Section One: Preamble.

The Virginia Board of Medicine ("Board") recognizes that using telemedicine services in the delivery of medical services offers potential benefits in the provision of medical care. The appropriate application of these services can enhance medical care by facilitating communication between practitioners, other health care providers, and their patients, prescribing medication, medication management, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information, and clarifying medical advice. With the exception of prescribing controlled substances, the Virginia General Assembly has not established statutory parameters regarding the provision and delivery of telemedicine services. Therefore, practitioners must apply existing laws and regulations to the provision of telemedicine services. The Board issues this guidance document to assist practitioners with the application of current laws to telemedicine service practices.

These guidelines should not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method used to enable practitioner-to-patient communications. For the purpose of prescribing controlled substances, a practitioner using telemedicine services in the provision of medical services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303. A practitioner should conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of telemedicine services as a component of, or in lieu of, in-person provision of medical care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The Board has developed these guidelines to educate licensees as to the appropriate use of telemedicine services in the practice of medicine. The Board is committed to ensuring patient access to the convenience and benefits afforded by telemedicine services, while promoting the responsible provision of health care services.

It is the expectation of the Board that practitioners who provide medical care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;

- In the case of physicians, properly supervise non-physician clinicians when required to do so by statute; and
- Protect patient confidentiality.

Section Two: Establishing the Practitioner-Patient Relationship.

The practitioner-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship. Where an existing practitioner-patient relationship is not present,[1] a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law.[2] While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.

A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

Section Three: Guidelines for the Appropriate Use of Telemedicine Services.

The Board has adopted the following guidelines for practitioners utilizing telemedicine services in the delivery of patient care, regardless of an existing practitioner-patient relationship prior to an encounter.

Licensure:

The practice of medicine occurs where the patient is located at the time telemedicine services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.

Evaluation and Treatment of the Patient:

[1] This guidance document is not intended to address existing patient-practitioner relationships established through in-person visits.

[2] The practitioner must adhere not only to Virginia law defining a practitioner-patient relationship, but the law in any state where a patient is receiving services that defines the practitioner-patient relationship.

A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

Informed Consent:

Evidence documenting appropriate patient informed consent for the use of telemedicine services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the patient, the practitioner, and the practitioner's credentials;
- Types of activities permitted using telemedicine services (e.g. prescription refills, appointment scheduling, patient education, etc.);
- Agreement by the patient that it is the role of the practitioner to determine whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;
- Details on security measures taken with the use of telemedicine services, such as encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express patient consent to forward patient-identifiable information to a third party.

Medical Records:

The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine services. Informed consents obtained in connection with an encounter involving telemedicine services should also be filed in the medical record. The patient record established during the use of telemedicine services must be accessible to both the practitioner and the patient, and consistent with all established laws and regulations governing patient healthcare records.

Privacy and Security of Patient Records and Exchange of Information:

Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telemedicine services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the

communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Section Four: Prescribing:

Prescribing controlled substances requires the establishment of a bona fide practitioner-patient relationship in accordance with § 54.1-3303 (A) of the Code of Virginia. Prescribing controlled substances, in-person or via telemedicine services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via telemedicine services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe controlled substances as part of telemedicine encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Prescribing controlled substances in Schedule II through V via telemedicine also requires compliance with federal rules for the practice of telemedicine. Practitioners issuing prescriptions as part of telemedicine services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

For the purpose of prescribing Schedule VI controlled substances, "telemedicine services" is defined as it is in § 38.2-3418.16 of the Code of Virginia. Under that definition, *"telemedicine services," as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.*

Section Five: Guidance Document Limitations.

Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of telemedicine services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

Statutory references:

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32.

B. A prescription shall be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship or veterinarian-client-patient relationship.

A bona fide practitioner-patient relationship shall exist if the practitioner has (i) obtained or caused to be obtained a medical or drug history of the patient; (ii) provided information to the patient about the benefits and risks of the drug being prescribed; (iii) performed or caused to be performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; and (iv) initiated additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Except in cases involving a medical emergency, the examination required pursuant to clause (iii) shall be performed by the practitioner prescribing the controlled substance, a practitioner who practices in the same group as the practitioner prescribing the controlled substance, or a consulting practitioner. In cases in which the practitioner is an employee of the Department of Health and is providing expedited partner therapy consistent with the recommendations of the Centers for Disease Control and Prevention, the examination required by clause (iii) shall not be required.

A practitioner who has established a bona fide practitioner-patient relationship with a patient in accordance with the provisions of this subsection may prescribe Schedule II through VI controlled substances to that patient, provided that, in cases in which the practitioner has performed the examination required pursuant to clause (iii) by use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies[3] when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the

[3] Although the term "store-and-forward technologies" is not defined by statute, it is defined by regulation of the Virginia Department of Health for the purpose of Medicare and Medicaid covered services, as: "'store and forward' means when prerecorded images, such as x-rays, video clips, and photographs are captured and then forwarded to and retrieved, viewed, and assessed by a provider at a later time. Some common applications include (i) teledermatology, where digital pictures of a skin problem are transmitted and assessed by a dermatologist; (ii) teleradiology, where x-ray images are sent to and read by a radiologist; and (iii) teleretinal imaging, where images are sent to and evaluated by an ophthalmologist to assess for diabetic retinopathy." 12 VAC 30-121-70(7)(a).

patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

§ 54.1-3408.01. Requirements for prescriptions.

A. The written prescription referred to in § 54.1-3408 shall be written with ink or individually typed or printed. The prescription shall contain the name, address, and telephone number of the prescriber. A prescription for a controlled substance other than one controlled in Schedule VI shall also contain the federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, electronically printed, typewritten, rubber stamped, or printed by hand.

The written prescription shall contain the first and last name of the patient for whom the drug is prescribed. The address of the patient shall either be placed upon the written prescription by the prescriber or his agent, or by the dispenser of the prescription. If not otherwise prohibited by law, the dispenser may record the address of the patient in an electronic prescription dispensing record for that patient in lieu of recording it on the prescription. Each written prescription shall be dated as of, and signed by the prescriber on, the day when issued. The prescription may be prepared by an agent for the prescriber's signature.

This section shall not prohibit a prescriber from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

No written prescription order form shall include more than one prescription. However, this provision shall not apply (i) to prescriptions written as chart orders for patients in hospitals and long-term-care facilities, patients receiving home infusion services or hospice patients, or (ii) to a prescription ordered through a pharmacy operated by or for the Department of Corrections or the Department of Juvenile Justice, the central pharmacy of the Department of Health, or the central outpatient pharmacy operated by the Department of Behavioral Health and Developmental Services; or (iii) to prescriptions written for patients residing in adult and juvenile detention centers, local or regional jails, or work release centers operated by the Department of Corrections.

B. Prescribers' orders, whether written as chart orders or prescriptions, for Schedules II, III, IV, and V controlled drugs to be administered to (i) patients or residents of long-term care facilities served by a Virginia pharmacy from a remote location or (ii) patients receiving parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion therapy and served by a home infusion pharmacy from a remote location, may be transmitted to that remote pharmacy by an electronic communications device over telephone lines which send the exact image to the receiver in hard copy form, and such facsimile copy shall be treated as a valid original prescription order. If the order is for a radiopharmaceutical, a physician authorized by state or federal law to possess and administer medical radioactive materials may authorize a nuclear medicine technologist to transmit a prescriber's verbal or written orders for radiopharmaceuticals.

C. The oral prescription referred to in § 54.1-3408 shall be transmitted to the pharmacy of the patient's choice by the prescriber or his authorized agent. For the purposes of this section, an authorized agent of the prescriber shall be an employee of the prescriber who is under his immediate and personal supervision, or if not an employee, an individual who holds a valid license allowing the administration or dispensing of drugs and who is specifically directed by the prescriber.

Revised:
Board of Medicine, June 22, 2017
Board of Nursing, July 18, 2017

Virginia Board of Medicine
Virginia Board of Nursing

Telemedicine for Nurse Practitioners

Introduction:

The Board of Nursing concurs with the Guidance Document adopted by the Board of Medicine for the use of telemedicine in the delivery of medical services for practice by nurse practitioners, as recommended by the Committee of the Joint Boards of Nursing and Medicine.

Section One: Preamble.

The Virginia Board of Medicine ("Board") recognizes that using telemedicine services in the delivery of medical services offers potential benefits in the provision of medical care. The appropriate application of these services can enhance medical care by facilitating communication between practitioners, other health care providers, and their patients, prescribing medication, medication management, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information, and clarifying medical advice. With the exception of prescribing controlled substances, the Virginia General Assembly has not established statutory parameters regarding the provision and delivery of telemedicine services. Therefore, practitioners must apply existing laws and regulations to the provision of telemedicine services. The Board issues this guidance document to assist practitioners with the application of current laws to telemedicine service practices.

These guidelines should not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method used to enable practitioner-to-patient communications. For the purpose of prescribing controlled substances, a practitioner using telemedicine services in the provision of medical services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303. A practitioner should conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of telemedicine services as a component of, or in lieu of, in-person provision of medical care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The Board has developed these guidelines to educate licensees as to the appropriate use of telemedicine services in the practice of medicine. The Board is committed to ensuring patient access to the convenience and benefits afforded by telemedicine services, while promoting the responsible provision of health care services.

It is the expectation of the Board that practitioners who provide medical care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;
- In the case of physicians, properly supervise non-physician clinicians when required to do so by statute; and
- Protect patient confidentiality.

Section Two: Establishing the Practitioner-Patient Relationship.
The practitioner-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship. Where an existing practitioner-patient relationship is not present,[1] a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law.[2] While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.

A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

Section Three: Guidelines for the Appropriate Use of Telemedicine Services.
The Board has adopted the following guidelines for practitioners utilizing telemedicine services in the delivery of patient care, regardless of an existing practitioner-patient relationship prior to an encounter.

<u>Licensure:</u>

The practice of medicine occurs where the patient is located at the time telemedicine services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners

[1] This guidance document is not intended to address existing patient-practitioner relationships established through in-person visits.
[2] The practitioner must adhere not only to Virginia law defining a practitioner-patient relationship, but the law in any state where a patient is receiving services that defines the practitioner-patient relationship.

who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.

Evaluation and Treatment of the Patient:

A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care. (See section on prescribing)

Informed Consent:

Evidence documenting appropriate patient informed consent for the use of telemedicine services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the patient, the practitioner, and the practitioner's credentials;
- Types of activities permitted using telemedicine services (e.g. prescription refills, appointment scheduling, patient education, etc.);
- Agreement by the patient that it is the role of the practitioner to determine whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;
- Details on security measures taken with the use of telemedicine services, such as encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express patient consent to forward patient-identifiable information to a third party.

Medical Records:

The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine services. Informed consents obtained in connection with an encounter involving telemedicine services should also be filed in the medical record. The patient record established during the use of telemedicine services must be accessible

to both the practitioner and the patient, and consistent with all established laws and regulations governing patient healthcare records.

Privacy and Security of Patient Records and Exchange of Information:

Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telemedicine services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Section Four: Prescribing.

Prescribing controlled substances requires the establishment of a bona fide practitioner-patient relationship in accordance with § 54.1-3303 (A) of the Code of Virginia. Prescribing controlled substances, in-person or via telemedicine services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via telemedicine services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe controlled substances as part of telemedicine encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Prescribing controlled substances in Schedule II through V via telemedicine also requires compliance with federal rules for the practice of telemedicine. Practitioners issuing prescriptions as part of telemedicine services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

For the purpose of prescribing Schedule VI controlled substances, "telemedicine services" is defined as it is in § 38.2-3418.16 of the Code of Virginia. Under that definition, *"telemedicine services," as it pertains to the delivery of health care services, means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient's diagnosis or treatment. "Telemedicine services" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.*

Section Five: Guidance Document Limitations.

Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of telemedicine services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

Statutory references:

§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. A practitioner who performs or has performed an appropriate examination of the patient required pursuant to clause (iii), either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-patient relationship, may prescribe Schedule II through VI controlled substances to the patient, provided that the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing;

(d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

§ 54.1-3408.01. Requirements for prescriptions.

A. The written prescription referred to in § 54.1-3408 shall be written with ink or individually typed or printed. The prescription shall contain the name, address, and telephone number of the prescriber. A prescription for a controlled substance other than one controlled in Schedule VI shall also contain the federal controlled substances registration number assigned to the prescriber. The prescriber's information shall be either preprinted upon the prescription blank, electronically printed, typewritten, rubber stamped, or printed by hand.

The written prescription shall contain the first and last name of the patient for whom the drug is prescribed. The address of the patient shall either be placed upon the written prescription by the prescriber or his agent, or by the dispenser of the prescription. If not otherwise prohibited by law, the dispenser may record the address of the patient in an electronic prescription dispensing record for that patient in lieu of recording it on the prescription. Each written prescription shall be dated as of, and signed by the prescriber on, the day when issued. The prescription may be prepared by an agent for the prescriber's signature.

This section shall not prohibit a prescriber from using preprinted prescriptions for drugs classified in Schedule VI if all requirements concerning dates, signatures, and other information specified above are otherwise fulfilled.

No written prescription order form shall include more than one prescription. However, this provision shall not apply (i) to prescriptions written as chart orders for patients in hospitals and long-term-care facilities, patients receiving home infusion services or hospice patients, or (ii) to a prescription ordered through a pharmacy operated by or for the Department of Corrections or the Department of Juvenile Justice, the central pharmacy of the Department of Health, or the central outpatient pharmacy operated by the Department of Behavioral Health and Developmental Services; or (iii) to prescriptions written for

patients residing in adult and juvenile detention centers, local or regional jails, or work release centers operated by the Department of Corrections.

B. Prescribers' orders, whether written as chart orders or prescriptions, for Schedules II, III, IV, and V controlled drugs to be administered to (i) patients or residents of long-term care facilities served by a Virginia pharmacy from a remote location or (ii) patients receiving parenteral, intravenous, intramuscular, subcutaneous or intraspinal infusion therapy and served by a home infusion pharmacy from a remote location, may be transmitted to that remote pharmacy by an electronic communications device over telephone lines which send the exact image to the receiver in hard copy form, and such facsimile copy shall be treated as a valid original prescription order. If the order is for a radiopharmaceutical, a physician authorized by state or federal law to possess and administer medical radioactive materials may authorize a nuclear medicine technologist to transmit a prescriber's verbal or written orders for radiopharmaceuticals.

C. The oral prescription referred to in § 54.1-3408 shall be transmitted to the pharmacy of the patient's choice by the prescriber or his authorized agent. For the purposes of this section, an authorized agent of the prescriber shall be an employee of the prescriber who is under his immediate and personal supervision, or if not an employee, an individual who holds a valid license allowing the administration or dispensing of drugs and who is specifically directed by the prescriber.

Virginia Board of Physical Therapy
Guidance on Telehealth

Section One: Preamble
The Board of Physical Therapy recognizes that using telehealth services in the delivery of physical therapy services offers potential benefits in the provision of care. Advancements in technology have created expanded and innovative treatment options for physical therapist and clients. The appropriate application of these services can enhance care by facilitating communication between practitioners, other health care providers, and their clients. The delivery of physical therapy services by or under the supervision of a physical therapist via telehealth in physical therapy falls under the purview of the existing regulatory body and the respective practice act and regulations. The Virginia General Assembly has not established statutory parameters regarding the provision and delivery of telehealth services. Therefore, physical therapy practitioners must apply existing laws and regulations to the provision of telehealth services.

The Board issues this guidance document to assist practitioners with the application of current laws to telehealth service practices. These guidelines should not be construed to alter the scope of physical therapy practice or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. For clarity, a physical therapist using telehealth services must take appropriate steps to establish the practitioner-patient (client) relationship and conduct all appropriate evaluations and history of the client consistent with traditional standards of care for the particular client presentation. As such, some situations and client presentations are appropriate for the utilization of telehealth services as a component of, or in lieu of, in-person provision of physical therapy care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.

The board has developed these guidelines to educate licensees as to the appropriate use of telehealth services in the practice of physical therapy. The Board is committed to ensuring patient access to the convenience and benefits afforded by telehealth services, while promoting the responsible provision of physical therapy services.

It is the expectation of the Board that practitioners who provide physical therapy care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of the client first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the physical therapy profession;
- Adhere to applicable laws and regulations;
- Properly supervise PTA's and support personnel;
- Protect client confidentiality.

Section Two: Definition

Telehealth is the use of electronic technology or media including interactive audio or video to engage in the practice of physical therapy. In this guidance document, "telehealth" does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.

Section Three: Responsibility for and Appropriate Use of Technology

A client's appropriateness for evaluation and treatment via telehealth should be determined by the Physical Therapist on a case-by–case basis, with selections based on physical therapist judgment, client preference, technology availability, risks and benefits, and professional standards of care. A PT is responsible for all aspects of physical therapy care provided to a client, and should determine and document the technology used in the provision of physical therapy. Additionally, the PT is responsible for assuring the technological proficiency of those involved in the client's care.

Section Four: Verification of Identity

Given that in the telehealth clinical setting the client and therapist are not in the same location and may not have established a prior in-person relationship, it is critical, at least initially, that the identities of the physical therapy providers and client be verified. Photo identification is recommended for both the client and all parties who may be involved in the delivery of care to the client. The photo identification, at minimum, should include the name of the individual; however, personal information such as address or driver's license number does not have to be shared or revealed. The client may utilize current means, such as state websites, to verify the physical therapy provider is licensed in the originating jurisdiction (where the client is located and receiving telehealth services).

Section Five: Informed Consent

Clients should be made aware of any limitations that telehealth services present as compared to an in-person encounter for that client's situation, such as the inability to perform hands-on examination, assessment and treatment, clients should give consent to such services and evidence documenting appropriate client informed consent for the use of telehealth services should be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:

- Identification of the client, the practitioner, and the practitioner's credentials;
- Types of activities permitted using telehealth services (e.g. such as photography, recording or videotaping the client.);

- Details on security measures taken with the use of telehealth services, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express client consent to forward client-identifiable information to a third party.

Section Six: Physical therapist/Client Relationship

Developing a physical therapist/client relationship is relevant regardless of the delivery method of the physical therapy services. As alternative delivery methods such as telehealth emerge, it bears stating that the PT/client relationship can be established in the absence of actual physical contact between the PT and client. Just as in a traditional (in-person) encounter, once the relationship is established, the therapist has an obligation to adhere to the reasonable standards of care for the client (duty of care).

Section Seven: Licensure

The practice of physical therapy occurs where the client is located at the time telehealth services are provided. A practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the client is located. Practitioners who evaluate or treat through online service sites must possess appropriate licensure in all jurisdictions where clients receive care.

Section Eight: Standards of Care

It is the responsibility of the PT to ensure the standard of care required both professionally and legally is met. As such, it is incumbent upon the PT to determine which clients and therapeutic interventions are appropriate for the utilization of technology as a component of, or in lieu of, in-person provision of physical therapy care. Physical therapy providers should be guided by professional discipline, best available evidence, and any existing clinical practice guidelines when practicing via telehealth. Physical therapy interventions and/or referrals/consultations made using technology will be held to the same standards of care as those in traditional (in-person) settings. The documentation of the telehealth encounter should be held at minimum to the standards of an in-person encounter. Additionally, any aspects of the care unique to the telehealth encounter, such as the specific technology used, should be noted.

Section Nine: Privacy and Security of Client Records and Exchange of Information

In any physical therapy encounter, steps should be taken to ensure compliance with all relevant laws, regulations and codes for confidentiality and integrity of identifiable client health information. Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telehealth services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required client information to be included in the communication, such as client name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be

periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Section Ten: Client Records

The client record should include, if applicable, copies of all client-related electronic communications, including client-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telehealth services. Informed consents obtained in connection with an encounter involving telehealth services should also be filed in the medical record. The client record established during the use of telehealth services should be accessible to both the practitioner and the client, and consistent with all established laws and regulations governing client healthcare records.

Section Eleven: Technical Guidelines

Physical therapy providers need to have the level of understanding of the technology that ensures safe, effective delivery of care. Providers should be fully aware of the capabilities and limitations of the technology they intend to use and that the equipment is sufficient to support the telehealth encounter, is available and functioning properly and all personnel are trained in equipment operation, troubleshooting, and necessary hardware/software updates. Additionally, arrangements should be made to ensure access to appropriate technological support as needed.

Section Twelve: Emergencies and Client Safety Procedures

When providing physical therapy services, it is essential to have procedures in place to address technical, medical, or clinical emergencies. Emergency procedures need to take into account local emergency plans. Alternate methods of communication between both parties should be established prior to providing telehealth services in case of technical complications. It is the responsibility of the provider to have all needed information to activate emergency medical services to the clients' physical location if needed at time of the services are being provided. If during the provision of services the provider feels that the client might be experiencing any medical or clinical complications or emergencies, services should be terminated and the client referred to an appropriate level of service.

Section Thirteen: Guidance Document Limitations

Nothing in this document shall be construed to limit the authority of the Board to investigate, discipline, or regulate its licensees pursuant to applicable Virginia statutes and regulations. Additionally, nothing in this document shall be construed to limit the Board's ability to review the delivery or use of telehealth services by its licensees for adherence to the standard of care and compliance with the requirements set forth in the laws and regulations of the Commonwealth of Virginia. Furthermore, this document does not limit the Board's ability to determine that certain situations fail to meet the standard of care or standards set forth in laws and regulations despite technical adherence to the guidance produced herein.

VIRGINIA BOARD OF SOCIAL WORK

Guidance on Technology-Assisted Therapy and the Use of Social Media

BACKGROUND

Social workers are currently engaged in a variety of online contact methods with clients. The use of social media, telecommunication therapy and other electronic communication is increasing exponentially with growing numbers of social media outlets, platforms and applications, including blogs, social networking sites, video sites, and online chat rooms and forums. Some social workers often use electronic media both personally and professionally.

Social media and technology-assisted therapy can benefit health care in a variety of ways, including fostering professional connections, promoting timely communication with clients and family members, and educating and informing consumers and health care professionals.

Social workers are increasingly using blogs, forums and social networking sites to share workplace experiences particularly events that have been challenging or emotionally charged. These outlets provide a venue for the practitioner to express his or her feelings, and reflect or seek support from friends, colleagues, peers or virtually anyone on the Internet. Journaling and reflective practice have been identified as effective tools in health care practice. The Internet provides an alternative media for practitioners to engage in these helpful activities. Without a sense of caution, however, these understandable needs and potential benefits may result in the practitioner disclosing too much information and violating client privacy and confidentiality.

This document is intended to provide guidance to practitioners using electronic therapy or media in a manner that maintains client privacy and confidentiality. The protection of the public health, safety, and welfare and the best interest of the public shall be the primary guide in determining the appropriate professional conduct of all persons whose activities are regulated by the board. ***Therefore, the standards of practice set forth in section 18VAC140-20-150 of the regulations and in the Code of Virginia apply regardless of the method of delivery.***

RECOMMENDATIONS BY THE BOARD

The Board of Social Work recommends the following when a licensee uses technology-assisted services as the delivery method:

- *A Social worker providing services to a client located in Virginia through technology-assisted therapy must be licensed by the Virginia Board of Social Work.*
- *The service is deemed to take place where the client is located.* Therefore, the social worker should make every effort to verify the client's geographic location.
- Social workers shall strive to become and remain knowledgeable about the dynamics of online relationships, the advantages and drawbacks of technology-assisted social work practice, and the ways in which such practice can be safely and appropriately conducted.

- *The social worker must take steps to ensure* client confidentiality and the security of client information in accordance with state and federal law.
- The social worker *should seek training or otherwise demonstrate* expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and the security of client information.
- *When working with a client who is not in Virginia*, social workers are advised to check the regulations of the state board in which the client is located. It is important to be mindful that states generally prohibit social work services to a client in the state by an individual who is unlicensed by that state.
- Social workers must follow the same standards of practice for technology-assisted social work practice as they do in a traditional social work setting.

ETHICS AND VALUES

Social workers providing technology-assisted therapy shall act ethically, ensure professional competence, protect client confidentiality, and uphold the values of the profession.

TECHNICAL COMPETENCIES

Social workers shall be responsible for becoming proficient in the technological skills and tools required for competent and ethical practice and for seeking appropriate training and consultation to stay current with emerging technologies.

CONFIDENTIALITY AND PRIVACY

Social workers shall protect client privacy when using technology in their practice and document all services, taking special safeguards to protect client information in the electronic record.

During the initial session, social workers should provide clients with information on the use of technology in service delivery. Social workers should assure that the client has received notice of privacy practices and should obtain any authorization for information disclosure and consent for treatment or services, as documented in the client record. Social workers should be aware of privacy risks involved when using wireless devices and other future technological innovations and take proper steps to protect client privacy.

Social workers should adhere to the privacy and security standards of applicable federal and state laws when performing services with the use of technology.

Social workers should give special attention to documenting services performed via the Internet and other technologies. They should be familiar with applicable laws that may dictate documentation standards in addition to licensure boards, third-party payers, and accreditation bodies. All practice activities should be documented and maintained in a safe, secure file with safeguards for electronic records.

BOARD OF SOCIAL WORK IMPLICATIONS

Instances of inappropriate use of social/electronic media or technology-assisted therapy may be reported to the Board, and it may investigate such reports, including reports of inappropriate disclosures on social media by a social worker, on the grounds of:

- Unprofessional conduct;
- Unethical conduct;
- Moral turpitude;
- Mismanagement of client records;
- Revealing a privileged communication; and
- Breach of confidentiality.

If the allegations are found to be true, the social worker may face disciplinary action by the Board, including a reprimand or sanction, assessment of a monetary fine, or temporary or permanent loss of licensure, certification, or registration.

GUIDING PRINCIPLES

Social networks and the Internet provide unparalleled opportunities for rapid knowledge exchange and dissemination among many people, but this exchange does not come without risk. Social workers and students have an obligation to understand the nature, benefits, and consequences of participating in social networking or providing technology-assisted therapy of all types. Online content and behavior has the potential to enhance or undermine not only the individual practitioner's career, but also the profession.

HOW TO AVOID PROBLEMS USING SOCIAL MEDIA

It is important to recognize that instances of inappropriate use of social media can and do occur, but with awareness and caution, social workers can avoid inadvertently disclosing confidential or private information about clients.

The following guidelines are intended to minimize the risks of using social media:

- Recognize the ethical and legal obligations to maintain client privacy and confidentiality at all times.
- Client-identifying information transmitted electronically should be done in accordance with established policies and state and federal law.
- Do not share, post, or otherwise disseminate any information, including images, about a client or information gained in the practitioner-client relationship with anyone unless permitted or required by applicable law.
- Do not identify clients by name or post or publish information that may lead to the identification of a client. Limiting access to postings through privacy settings is not sufficient to ensure privacy.
- Do not refer to clients in a disparaging manner, or otherwise degrade or embarrass the client, even if the client is not identified.

- Do not take photos or videos of clients on personal devices, including cell phones. Follow employer policies for taking photographs or video of clients for treatment or other legitimate purposes using employer-provided devices.
- Maintain professional boundaries in the use of electronic media. Like in-person relationships, the practitioner has the obligation to establish, communicate and enforce professional boundaries with clients in the online environment. Use caution when having online social contact with clients or former clients. Online contact with clients or former clients blurs the distinction between a professional and personal relationship. The fact that a client may initiate contact with the practitioner does not permit the practitioner to engage in a personal relationship with the client.
- Consult employer policies or an appropriate leader within the organization for guidance regarding work related postings.
- Promptly report any identified breach of confidentiality or privacy in accordance with state and federal laws.

RECOMMENDED REFERENCE

The Board recommends any social worker considering the use of technology-assisted practice read and become familiar with the most recent resource document adopted by the National Association of Social Workers, the Association of Social Work Boards, the Council of Social Work Education and the Clinical Social Work Association, entitled *Technology Standards in Social Work Practice.*

CONCLUSION

Social/ electronic media and technology-assisted therapy possess tremendous potential for strengthening professional relationships and providing valuable information to health care consumers. Social workers need to be aware of the potential ramifications of disclosing client-related information via social media or through technology-assisted therapy. Social workers should be mindful of relevant state and federal laws, professional standards regarding confidentiality, and the application of those standards. Social workers should also ensure the standards of practice set forth in 18 VAC 140-20-150 are met when performing technology-assisted therapy.

SHAV

Leslie Knachel

From: audbd@dhp.virginia.gov
Subject: FW: FW: Virginia Telepractice Guidelines

From: Jennifer Ruckner [redacted]
Sent: Tuesday, November 27, 2018 2:14 PM
To: leslie.knachel@dhp.virginia.gov
Subject: Virginia Telepractice Guidelines

Leslie,

I am the Chairman of the Virginia Telpractice Committee. This past summer the committee submitted Telepractice Guidelines for review by the SHAV Board. At the beginning of November 2018, the Telepractice Guidelines were approved by SHAV to encourage best practices in the State of Virginia. The goal of SHAV is to move forward with these types of guidelines in hopes of securing third party reimbursements from Medicaid and Medicare eventually and all insurance. Our understanding from speaking to other states who have guidelines in place is that the key to moving forward is to get adoption of guidelines from the state association (SHAV) and to submit these guidelines to the regulatory board (Board of Audiology and Speech-Language Pathology). We are offering them to you to preview and then contact me with any questions. I look forward to an opportunity to discuss this further with you.

Sincerely,

Jennifer Ruckner, MS CCC-SLP

Chairman of Virginia Telepractice Committee

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[redacted]

The information transmitted is intended solely for the individual or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of or taking action in reliance upon the information by persons or entities other

SHAV

DRAFT Proposal for Telepractice Guidelines for Speech-Language Pathologists and Audiologists Practicing in the Commonwealth of Virginia

Submitted by SHAV Ad Hoc Committee on Telepractice

Kellyn Hall (Chair)

Judith C. Turcott
Patti Minicucci
Collette Reynolds
Joyce Sunday
Cornelia H. Long

Terms:

(1) "Facilitator" means a trained individual who is physically present with the patient and facilitates telepractice at the direction of an audiologist or speech-language pathologist. A facilitator may be but is not limited to an audiology or speech-language pathology aide or assistant.

(2) "Patient" means a consumer of services from an audiologist or speech-language pathologist, including a consumer of those services provided through telepractice.

(3) "Telepractice" means the application of telecommunications technology to the delivery of speech language pathology and audiology professional services at a distance by linking clinician to client or clinician to clinician for assessment, intervention, and/or consultation.

(4) "Asynchronous" means a method of exchanging information that does not require the patient and the provider to be available at the same time. Examples of such communication, also known as "store-and-forward" transmission, include e-mails, faxes, recorded video clips, audio files and virtual technologies and e-learning programs.

(5) "Synchronous" means interactive transmission of data occurring bi-directionally in real time and requiring the patient and the provider be available at the same time.

Scope of Telepractice and Requirements:

(1) The quality of services provided through telepractice must be equivalent to the quality of audiology or speech-language pathology services that are provided in person and must conform to all existing state, federal, and institutional professional standards, policies, and requirements for audiologists and speech-language pathologists.

(2) Technology used to provide telepractice, including but not limited to equipment, connectivity, software, hardware, and network compatibility, must be appropriate for the service being delivered and must address the unique needs of each patient. Audio and video quality utilized in telepractice must be sufficient to deliver services that are equivalent to services that are provided in person. A person providing telepractice services is responsible for calibrating clinical instruments in accordance with standard operating procedures and the manufacturer's specifications.

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(3) A person providing telepractice services shall comply with all state and federal laws, rules, and regulations governing the maintenance of patient records, including maintaining patient confidentiality and protecting sensitive patient data.

(4) A person providing telepractice services shall conduct an initial assessment of each patient's candidacy for telepractice, including the patient's behavioral, physical, and cognitive abilities to participate in services provided through telepractice. Telepractice may not be provided only through written correspondence or audio only communication.

(5) At a minimum, a person providing telepractice services shall provide a written notice of telepractice services to each patient and, if applicable, the patient's guardian, caregiver, or multidisciplinary team. The notification must provide that a patient has the right to refuse telepractice services and has options for service delivery and must include instructions on filing and resolving complaints.

Provision of Telepractice Services:

(1) The provision of speech-language pathology or audiology services in this state through telepractice, regardless of the physical location of the speech-language pathologist or audiologist, constitutes the practice of speech-language pathology or audiology and is subject to state licensure requirements and regulation by the board.
(2) No person licensed as a speech-language pathologist or audiologist in another state may engage in the practice of speech-language pathology or audiology in Virginia, including telepractice services, unless a license to practice has been issued in Virginia.
(3) A person located outside this state who provides speech-language pathology or audiology telepractice services to any patient in Virginia shall be appropriately licensed in the jurisdiction in which the person providing telepractice services is located as well as in the jurisdiction in which the client receiving telepractice services is located.
(4) An audiology aide or assistant or a speech-language pathology aide or assistant may not engage in telepractice. This section does not prohibit an audiology aide or assistant or a speech-language pathology aide or assistant from serving as a facilitator.
(5) All telepractitioners must abide by any statute or rule of this state governing the maintenance of patient records and patient confidentiality, regardless of the state where the records are maintained.

Quality of Telepractice Services:

(1) Elements of quality assurance include the competency of licensees, selection of patients, appropriateness of technology to the service being delivered, identification of appropriate outcome measures, collection of data, and satisfaction of the patient, caregiver, and provider.
(2) Telepractice services must conform to professional standards, including all appropriate and ASHA codes of ethics.
(3) Licensees shall not engage in false, misleading, or deceptive advertising of

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telepractice services.
(4) Telepractice services may not be provided solely by correspondence, e.g., mail, e-mail, and faxes, although such may be adjuncts to telepractice.
(5) Licensees shall engage in only those aspects of the professions that are within the scope of their competence, considering their level of education, training, and experience.
(6) Telepractice services must be in compliance with safety and infection control policies and procedures.

(7) Prior to initiating services, a speech-language pathologist or audiologist shall:

(a) make reasonable attempts to verify the identity of the patient;
(b) obtain alternative means of contacting the patient other than electronically;
(c) provide to the patient alternative means of contacting the licensee other than electronically;
(d) document whether the patient has the necessary knowledge and skills to benefit from the type of telepractice provided by the licensee;
(e) determine the availability of a facilitator, if needed, with the necessary level of training to assist at the patient's location;
(f) provide orientation and training to the patient in the use of telepractice equipment and the telepractice protocol at an appropriate level for the patient; and
(g) inform the patient in writing of the following:

- (i) the limitations of using technology in the provision of telepractice;
- (ii) the potential risks to the confidentiality of information due to technology used in telepractice;
- (iii) the potential risks of disruption in the use of telepractice;
- (iv) when and how the licensee will respond to routine electronic messages;
- (v) in what circumstances the licensee will use alternative communications for emergency purposes;
- (vi) who else may have access to patient communications with the licensee;
- (vii) how communications can be directed to a specific licensee;
- (viii) how the licensee stores electronic communications from the patient; and
- (ix) that the licensee may elect to discontinue the provision of telepractice services.

(8) The written document required by (7)(g) shall be signed by both the licensee and the patient and maintained in the clinical record. If the patient is a minor, the document shall be signed by the patient's parent or guardian.

Telepractice Competencies:

(1) A licensee using telepractice to deliver services shall:
(a) complete four hours of board-approved telepractice training prior to engaging in telepractice in Virginia;
(b) limit telepractice services to the licensee's scope of practice;
(c) maintain continuing competency or associate with a group who has experience in telepractice delivery of care;
(d) establish and abide by written policies addressing:

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a. methods for protecting health information that include authentication and encryption technology;
b. limiting access to protected health information to only those necessary for the provision of services or those required by law; and
c. ensuring that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the licensee disposes of electronic equipment and data.

June 2018

ASHA Telepractice Talking Points

A growing number of states have legal requirements regarding telepractice.

What can practitioners do to ensure that they have met the requirements for practice and reduce unnecessary barriers for those wishing to practice across state lines?

- Check with ASHA, or your state association, to see if legislation and/or regulations on this topic have been introduced in your state.
- Verify state licensure requirements and policies regarding telepractice—in the state where you are licensed AND in the state you wish to do telepractice—prior to initiating services.
- Contact your state association and licensure board to advocate for polices/rules (such as limited licensure or registration) that allow you to practice across state lines without undue hardship. These efforts would reduce barriers (cost and maintenance of multiple licenses) for practitioners.
- Respond to requests from ASHA and your state association to send letters to your legislators and/or regulators on this issue.
- Attend hearings and provide testimony on how the issue affects you personally.
- Leave your business card and the ASHA issue brief on telepractice when attending meetings.
- Invite legislators and/or regulators to your place of business to watch a telepractice session in person.

What can practitioners do to improve the coverage and reimbursement of telepractice services?

- Medicare: Advocate for and support federal legislation that would include audiology and speech-language pathology as a covered service.
- Medicaid and Private insurance: Contact your state Medicaid office and insurance companies to verify authorization, documentation, and coding requirements.
- Work with state associations and state network representatives to advocate for coverage of audiology and speech-language pathology services.
- Respond to requests from ASHA and your state association to send letters to your legislators and/or regulators on this issue

ASHA

- Attend hearings and provide testimony on how the issue affects you personally
- International Considerations: Refer to ASHA's list of international contacts for audiologists and SLPs who deliver services to individuals in other countries. Contact those countries for rules and laws that apply to telepractitioners.

From ASHA Website:

Telepractice is the application of telecommunications technology to the delivery of speech language pathology and audiology professional services at a distance by linking clinician to client or clinician to clinician for assessment, intervention, and/or consultation.

Supervision, mentoring, pre-service, and continuing education are other activities that may be conducted through the use of technology. However, these activities are not included in ASHA's definition of telepractice and are best referred to as **telesupervision/distance supervision** and **distance education.** See ASHA's Practice Portal page on Clinical Education and Supervision for a detailed discussion of telesupervision.

ASHA adopted the term **telepractice** rather than the frequently used terms **telemedicine** or **telehealth** to avoid the misperception that these services are used only in health care settings. Other terms such as **teleaudiology, telespeech,** and **speech teletherapy** are also used by practitioners in addition to **telepractice.** Services delivered by audiologists and speech-language pathologists (SLPs) are included in the broader generic term **telerehabilitation** (American Telemedicine Association, 2010).

Use of telepractice must be equivalent to the quality of services provided in person and consistent with adherence to the *Code of Ethics* (ASHA, 2016a), *Scope of Practice in Audiology* (ASHA, 2018), *Scope of Practice in Speech-Language Pathology* (ASHA, 2016b), state and federal laws (e.g., licensure, Health Insurance Portability and Accountability Act [HIPAA; U.S. Department of Health and Human Services, n.d.-c]), and ASHA policy.

Telepractice venues include schools, medical centers, rehabilitation hospitals, community health centers, outpatient clinics, universities, clients' homes, residential health care facilities, child care centers, and corporate settings. There are no inherent limits to where telepractice can be implemented, as long as the services comply with national, state, institutional, and professional regulations and policies. See *ASHA State-by-State* for state telepractice requirements.

Common terms describing types of telepractice are as follows:

- **Synchronous** (client interactive)—services are conducted with interactive audio and video connection in real time to create an in-person experience similar to that achieved in

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a traditional encounter. Synchronous services may connect a client or group of clients with a clinician, or they may include consultation between a clinician and a specialist.

- **Asynchronous** (store-and-forward)—images or data are captured and transmitted (i.e., stored and forwarded) for viewing or interpretation by a professional. Examples include transmission of voice clips, audiologic testing results, or outcomes of independent client practice.
- **Hybrid**—applications of telepractice that include combinations of synchronous, asynchronous, and/or in-person services.

Clinicians and programs should verify state licensure and payer definitions to ensure that a particular type of service delivery is consistent with regulation and payment policies.

Roles and Responsibilities

Telepractice is an appropriate model of service delivery for audiologists and SLPs.

Roles and responsibilities for audiologists and SLPs in the provision of services via telepractice include

- understanding and applying appropriate models of technology used to deliver services;
- understanding the appropriate specifications and operations of technology used in delivery of services;
- calibrating and maintaining clinical instruments and telehealth equipment;
- selecting clients who are appropriate for assessment and intervention services via telepractice;
- selecting and using assessments and interventions that are appropriate to the technology being used and that take into consideration client and disorder variables;
- being sensitive to cultural and linguistic variables that affect the identification, assessment, treatment, and management of communication disorders/differences in individuals receiving services via telepractice;
- training and using support personnel appropriately when delivering services;
- being familiar with the available tools and methods and applying them to evaluate the effectiveness of services provided and to measure outcomes;
- maintaining appropriate documentation, including informed consent for use of telepractice and documentation of the telepractice encounter;

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- being knowledgeable about and compliant with existing rules and regulations regarding telepractice, including security and privacy protections, reimbursement for services, and licensure, liability, and malpractice concerns; and
- collaborating with physicians and other practitioners for timely referral and follow-up services.

Telepractice is constantly evolving. Ongoing education and training is required to maintain expertise and familiarity with changes in technology and potential clinical applications. Web technology allows clinicians to engage clients through virtual environments and other personally salient activities (Towey, 2012a).

Ethical Considerations

ASHA requires that individuals who provide telepractice abide by the ASHA *Code of Ethics* (ASHA, 2016a), including the following specific principles denoted within:

- Principle of Ethics II, Rule A: Individuals who hold the Certificate of Clinical Competence shall engage in only those aspects of the professions that are within the scope of their professional practice and competence, considering their certification status, education, training, and experience.
- Principle of Ethics I, Rule N: Individuals who hold the Certificate of Clinical Competence shall not provide clinical services solely by correspondence, but may provide services via telepractice consistent with professional standards and state and federal regulations.
- Principle of Ethics IV, Rule R: Individuals shall comply with local, state, and federal laws and regulations applicable to professional practice, research ethics, and the responsible conduct of research.
- Principle of Ethics I, Rule K: Individuals who hold the Certificate of Clinical Competence shall evaluate the effectiveness of services provided, technology employed, and products dispensed, and they shall provide services or dispense products only when benefit can reasonably be expected.
- Principle of Ethics II, Rule G: Individuals shall make use of technology and instrumentation consistent with accepted professional guidelines in their areas of practice. When such technology is not available, an appropriate referral may be made.

ASHA

- Principle of Ethics II, Rule H: Individuals shall ensure that all technology and instrumentation used to provide services or to conduct research and scholarly activities are in proper working order and are properly calibrated.
- Principle of Ethics I, Rule M: Individuals who hold the Certificate of Clinical Competence shall use independent and evidence-based clinical judgment, keeping paramount the best interests of those being served.
- Principle of Ethics II, Rule F: Individuals in administrative or supervisory roles shall not require or permit their professional staff to provide services or conduct clinical activities that compromise the staff member's independent and objective professional judgment.
- Principle of Ethics IV, Rule B: Individuals shall exercise independent professional judgment in recommending and providing professional services when an administrative mandate, referral source, or prescription prevents keeping the welfare of persons served paramount.

Licensure and Teacher Certification

A growing number of states have legal or regulatory requirements regarding telepractice. Prior to initiating services, clinicians should verify state licensure requirements and policies regarding telepractice—including temporary location changes such as vacations and college attendance—in the state from which the clinician provides services and the state in which the client receives services.

Current guidance in medical and legal practices indicates that the client's location determines the site of service. We remind readers that ASHA guidelines assert that telepractioners must be licensed in both the state from which they provide services and the state where the client is located at the time of service. Recognizing that this can be a burden to practitioners and a barrier to the growth of telehealth, several professional health care organizations (e.g., nursing, physicians, and physical therapists) are in the process of developing licensure compacts that would facilitate a streamlined process to practice in other states. ASHA currently is supporting an initiative to explore a similar solution for audiologists and SLPs.

Civilian employees of the Department of Defense and the Department of Veterans Affairs may not be bound by the same licensing requirements. Confirm the specific licensing requirements for your circumstances.

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Clinicians planning to do telepractice in a school setting in a state other than where they reside should verify with the Department of Education and the licensure board (in that state) whether licensure or teacher certification—or both—are required. Private contractors or clinicians working for telepractice companies that are contracting in schools would have to have a state license.

See ASHA's resource on state telepractice requirements.

See maps of states [PDF] with written guidance on the use of telepractice in licensure law or regulation.

See maps of states [PDF] with written guidance on the use of telesupervision of clinical fellows, students (interns) and support personnel.

International Considerations

ASHA-certified audiologists and speech-language pathologists who deliver telepractice services to individuals in other countries are bound by ASHA's *Code of Ethics* (ASHA, 2016a), *Scope of Practice in Audiology* (ASHA, 2018), *Scope of Practice in Speech-Language Pathology* (ASHA, 2016b), *Preferred Practice Patterns for the Profession of Audiology* (ASHA, 2006), and *Preferred Practice Patterns for the Profession of Speech-Language Pathology* (ASHA, 2004).

Prior to providing international telepractice services, it is important to

- confirm requirements, if they exist, for the practice of audiology or speech-language pathology in the specific countries (see ASHA's resource on audiology and speech-language pathology associations outside of the United States for a list of international associations); and
- consult additional resources on providing services with cultural and linguistic sensitivity (see ASHA's Practice Portal pages on Bilingual Service Delivery, Collaborating With Interpreters, and Cultural Competence).

Many possible international telepractice scenarios exist, such as treating American citizens who live abroad or on military bases or providing services to citizens of other countries. ASHA recommends that practitioners check their professional liability status and consult with the regulatory body in that country.

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Reimbursement

Telepractice providers should be prepared to educate payers about how telepractice services are delivered and the benefits to clients and payers. Educational materials may include research articles, organization policies and procedures to ensure provider training and quality services, educational/informed consent materials for clients, video clips, and testimonials.

See maps of states with written guidance on telepractice reimbursement laws and regulations.

Private Health Insurance

Some states have passed insurance/parity laws (i.e., legislation mandating coverage of telepractice). Generally, the mandates require health insurers and health maintenance organizations to cover the cost of health care services provided through telepractice on the same basis as those provided through in-person visits. Insurers may reimburse for telepractice in states without mandates; however, given the variability of state requirements, the practitioner should first check with the payer and state regulations, if available. See ASHA State-by-State for more information.

See maps of states [PDF] with written guidance on telepractice reimbursement laws and regulations.

Medicare

Medicare reimburses some providers for specific telepractice services under specified conditions, but audiologists, SLPs, and other rehabilitation professionals are not presently included in legislation as eligible providers. ASHA and other organizations have been actively lobbying for legislation to expand eligibility to include audiologists and SLPs, among others.

Beneficiaries can receive covered services only from enrolled providers and may not pay for telepractice services privately.

See maps of states [PDF] with written guidance on telepractice reimbursement laws and regulations.

Medicaid

Medicaid is a federal/state entitlement program for low-income individuals and families. Each state

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- administers its own programs;
- establishes its own eligibility standards;
- chooses the type, amount, duration, and scope of services; and
- sets the rate of payment for services.

Practitioners should contact the appropriate state Medicaid office to verify how a telepractice service should be reflected in the billing code and documentation. See ASHA State-by-State for more information.

Client Selection

Because clinical services are based on the unique needs of each individual client, telepractice may not be appropriate in all circumstances or for all clients. Candidacy for receiving services via telepractice should be assessed prior to initiating services. The client's culture, education level, age, and other characteristics may influence the appropriateness of audiology and speech-language services provided via telepractice.

Consider the potential impact of the following factors on the client's ability to benefit from telepractice:

- Physical and sensory characteristics, including
  - hearing ability;
  - visual ability (e.g., ability to see material on a computer monitor);
  - manual dexterity (e.g., ability to operate a keyboard if needed); and
  - physical endurance (e.g., sitting tolerance).
- Cognitive, behavioral, and/or motivational characteristics, including
  - level of cognitive functioning;
  - ability to maintain attention (e.g., to a video monitor);
  - ability to sit in front of a camera and minimize extraneous movements to avoid compromising the image resolution; and
  - willingness of the client and family/caregiver (as appropriate) to receive services via telepractice.
- Communication characteristics, including
  - auditory comprehension;
  - literacy;

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    - speech intelligibility;
    - cultural/linguistic variables; and
    - availability of an interpreter.
- Client's support resources, including
    - availability of technology;
    - access to and availability of resources (e.g., computer, adequate bandwidth, facilitator);
    - appropriate environment for telepractice (e.g., quiet room with minimal distractions); and
    - ability of the client, caregiver, and/or facilitator to follow directions to operate and troubleshoot telepractice technology and transmission.

Environmental Considerations

Attention to environmental elements of care is important to ensure the comfort, safety, confidentiality, and privacy of clients during telepractice encounters. Careful selection of room location, design, lighting, and furniture should be made to optimize the quality of video and audio data transmission and to minimize ambient noise and visual distractions in all participating sites.

Advance planning and preparation is needed for optimal positioning of the client, test materials and therapy materials, and for placement of the video monitor and camera (Jarvis-Selinger, Chan, Payne, Plohman, & Ho, 2008).

Practice Areas

The growing body of research on the use of telepractice for communication disorders includes many studies demonstrating the comparability of telepractice and in-person services.

Audiology

Computer-based clinical applications are common in audiology today (Choi, Lee, Park, Oh, & Park, 2007; Kokesh, Ferguson, Patricoski, & LeMaster, 2009). For example, telepractitioners frequently use computer peripherals—such as audiometers, hearing aid systems, and auditory brainstem response (ABR), otoacoustic emissions (OAEs), and immittance testing equipment—that can be interfaced to existing telepractice networks. Manufacturers are now promoting equipment with synchronous or store-and-forward capabilities.

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Teleaudiology is being used in the following practice areas:

- Aural rehabilitation (Polovoy, 2009; Saunders & Chisolm, 2015; Yates & Campbell, 2005)
- Cochlear implant fitting (Hughes et al., 2012; Wasowski et al., 2012)
- Hearing aid fitting (Campos & Ferrari, 2012; Penteado, de Lima Ramos, Battistella, Marone, & Bento, 2012)
- Infant and pediatric hearing screenings (Botasso, Sanches, Bento, & Samelli, 2015; Krumm, Huffman, Dick, & Klich, 2007; Krumm, Ribera, & Schmiedge, 2005; Lancaster, Krumm, Ribera, & Klich, 2008; Skarzyński et al., 2016; Stuart, 2016)
- Pure-tone audiometry (Krumm, Ribera, & Klich, 2007; Masalski, & Kręcicki, 2013; Swanepoel, Mngemane, Molemong, Mkwanazi, & Tutshini, 2010; Visagie, Swanepoel, & Eikelboom, 2015)
- Speech-in-noise testing (Ribera, 2005)
- Video otoscopy (Biagio, Swanepoel, Adeyemo, Hall & Vinck, 2013; Eikelboom, Atlas, Mbao, & Gallop, 2002)

Speech-Language Pathology

Telepractice is being used in the assessment and treatment of a wide range of speech and language disorders, including the following:

- Aphasia (Macoir, Martel Sauvageau, Boissy, Tousignant, & Tousignant, 2017)
- Articulation disorders (Crutchley, Dudley, & Campbell, 2010; Grogan-Johnson et al., 2013)
- Autism (Higgins, Luczynski, Carroll, Fisher, & Mudford, 2017; Iacono et al., 2016; Parmanto, Pulantara, Schutte, Saptono, & McCue, 2013)
- Dysarthria (Hill et al., 2006)
- Dysphagia (Cassel, 2016; Malandraki, McCullough, He, McWeeny, & Perlman, 2011; Perlman & Witthawaskul, 2002)
- Fluency disorders (Carey, O'Brian, Lowe, & Onslow, 2014; Carey, O'Brian, Onslow, Packman, & Menzies, 2012; Lewis, Packman, Onslow, Simpson, & Jones, 2008)
- Language and cognitive disorders (Brennan, Georgeadis, Baron, & Barker, 2004; Sutherland, Hodge, Trembath, Drevensek, & Roberts, 2016; Waite, Theodoros, Russell, & Cahill, 2010)

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- Neurodevelopmental disabilities (Simacek, Dimian, & McComas, 2017)
- Voice disorders (Halpern et al., 2012; Mashima & Brown, 2011; Theodoros et al., 2006; Tindall, Huebner, Stemple, & Kleinert, 2008; Towey, 2012b)

Modification of Assessment and Treatment Techniques and Materials

Clinicians who deliver telepractice services must possess specialized knowledge and skills in selecting assessments and interventions that are appropriate to the technology and that take into consideration client and disorder variables. Assessment and therapy procedures and materials may need to be modified or adapted to accommodate the lack of physical contact with the client. These modifications should be reflected in the interpretation and documentation of the service.

Some publishers of standardized assessments have developed guidance about administration of tests via telepractice or validated assessments for administration via telepractice (e.g., see Pearson's guidelines on assessment via telepractice). Other researchers have compared the validity of in-person and remote assessment protocols (Sutherland et al., 2016; Taylor, Armfield, Dodrill, & Smith, 2014).

School Setting Considerations

Schools are currently the most common setting in which telepractice services are delivered. This is due to a number of factors, including shortages of clinicians in some school districts, distances between schools in rural areas, and opportunities to offer greater specialization within a district.

Telepractice services may be provided by private contractors with the local education agency or school district, or the services may be provided by audiologists and SLPs employed by the district. Some states allow reimbursement for eligible students covered by Medicaid when services are delivered via telepractice; however, the state's Medicaid policy and coding guidance should be verified. See ASHA State-by-State for more information.

The effectiveness of telepractice as a service delivery model in the schools is well documented (Gabel, Grogan-Johnson, Alvares, Bechstein, & Taylor, 2013; Grogan-Johnson, Alvares, Rowan, & Creaghead, 2010; Grogan-Johnson et al., 2011; Lewis et al., 2008; McCullough, 2001).

In addition, parents, clients, and clinicians report satisfaction with telepractice as a mode of service delivery (Crutchley & Campbell, 2010; McCullough, 2001; Rose et al., 2000).

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The administrative body responsible for defining telepractice-based services in a school or school district should

- ensure that telepractice clinicians (who may not reside in the state where the school is located) meet all state requirements to practice in the school;
- make certain that telepractice clinicians have knowledge, skills, and training in the use of telepractice;
- recognize that every student may not be best served by a telepractice model and give students the opportunity to receive traditional in-person services;
- inform parents that they have the right to decline telepractice services for their child;
- provide parents with an informed consent, satisfaction survey, or other feedback option and opportunities to discuss concerns about their child's progress or the telepractice program;
- document service delivery via telepractice on the Individualized Education Plan (IEP) and during the IEP meeting;
- formulate policies that ensure protection of privacy during the services as well as documentation of the services;
- provide on-site support for the telepractice sessions, including the assignment of an individual to accompany the student to the session and provide support during the session;
- develop a plan for in-servicing staff, training on-site facilitators, and maintaining ongoing contact and collaboration with teachers, parents, and other school personnel—thereby ensuring that state standards are met; and
- develop a system of program evaluation to measure the effectiveness of the service and satisfaction of the stakeholders.

Telepractice Technology

The use of technology is an inherent element of telepractice. Specifications and selection of the appropriate hardware and software equipment and connectivity vary according to the telepractice application. Technical support and training in the use of telepractice equipment are essential for success; further, these needs will be ongoing as technology continues to evolve.

Videoconferencing Tools (Hardware, Software, and Peripheral Devices)

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Video communication can be accomplished through the use of personal videophones, videoconferencing software, and dedicated videoconferencing hardware and secure web-based programs.

Factors/options in the selection of videoconferencing tools include the following:

- Camera capabilities (e.g., pan–tilt–zoom [PTZ] and resolution), display monitor capabilities (e.g., size, resolution, and dual display), microphone and speaker quality, and multisite capability
- Peripheral devices, such as recording devices or auxiliary video input equipment for computer interfacing, document cameras, or other specialized cameras with high resolution (e.g., fiberoptic videoendoscopes)
- Additional modes of real-time interaction through applications include (but are not limited to)
    - screen sharing;
    - annotation;
    - whiteboards;
    - online presentation without limitations;
    - text chat;
    - recording (with or without editing capability);
    - touch screen; and
    - interactivity features (e.g., animations, widgets, games, stamps, and paintbrush).

Considerations in Selecting a Web-Conferencing Collaboration Service

There are three web-conferencing option levels—business class, software-based, and public domain.

- **Business class**—involves the purchase of hardware and is typically used at large facilities such as universities or medical centers.
- **Software-based**—provides information on the level of encryption and includes an agreement with the practitioner on how the client's information is protected.
- **Public domain**—is not validated as secure and often does not indicate how information is encrypted (e.g., Facetime, Skype, and Google Handouts).

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When selecting a web-conferencing option,

- review full product description, subscription details, and pricing;
- note the required processing speed and needed storage capacity of the personal device to be used;
- evaluate the ease of use to (a) host an encounter and (b) join an encounter (e.g., required web browser to join meeting or software download);
- request a trial period to experience features, functionality, limitations, and challenges;
- consider scalability (number of hosts and attendees permitted);
- research the responsiveness of tech support and active user communities;
- determine whether there is an international limitation if dial-in numbers are needed to join the encounter; and
- review privacy/security features and, if applicable, determine HIPAA compliance.

Connectivity

During telepractice, information is transmitted across a telecommunications connection (e.g., point-to-point, dedicated line, web-based) between participants at different sites.

Consider the following factors in determining an appropriate connection strategy:

- Network connection speed affects overall quality of video and audio clarity. Expert users note that an upload/download speed of no less than 3 MB is needed for optimal connection and screen sharing. When adding a shared video source (e.g., Microsoft PowerPoint, YouTube, or video recordings), upload and download speeds should be no less than 5 MB.
- Available bandwidth may be reduced by the number of users on the communication network—for example, during peak usage times in schools.
- Higher connection speeds may be required for a high-definition (HD), dual-streaming video presentation or for hosting multipoint calls. Lower bandwidth may result in delays, jitter, and loss of data, and may interfere with quality of signals for clinical decision making or normal turn-taking in conversational discourse.
- Establishing an alternative connection (e.g., telephone, e-mail) enables participants to troubleshoot connection problems or to reschedule the session.

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- Lack of technological compatibility may be a barrier to connecting sites with different hardware, software, and bandwidth speeds. A hard-wired connection is optimal in a shared Wi-Fi environment.
- Secure transmission during telepractice may be obtained through the use of encryption, unique passwords, unique meeting numbers, secure connection via virtual private network (VPN), and hardware/software firewalls.

Facilitators in Telepractice for Audiology and Speech-Language Services

Appropriately trained individuals may be present at the remote site to assist the client. Unless restricted by institutional or state policies or regulations, the facilitator may be a teacher's aide, nursing assistant, student clinician, audiology assistant or speech-language pathology assistant, teleaudiology clinical technician, telepresenter or other type of support personnel, interpreter, family member or caregiver, among others. Practitioners must be aware of applicable state policies and regulations regarding the use of facilitators.

The type of paraprofessional required at the remote site may vary depending on the type of service being provided. It is the responsibility of the pracitioner to direct the session and ensure that the facilitator is adequately trained to assist. Adequate training includes knowledge of and sensitivity to clients' cultural and linguistic differences as well as how such differences may influence participation in telepractice (see ASHA's Practice Portal pages on Bilingual Service Delivery and Cultural Competence). The hierarchy for preferred interpreters in telepractice is consistent with that used for interpreters during in-person practice (see ASHA's Practice Portal page on Collaborating With Interpreters).

Privacy and Security

Practitioners should be aware of federal and state regulations relating to privacy and security, including those pertaining to storage and transmission of client information.

Clinicians providing services via telepractice are bound by federal and state regulations as they would be when providing in-person services. The following federal legislation addresses privacy and security for covered entities:

- Health Insurance Portability and Accountability Act of 1996 (HIPAA; U.S. Department of Health and Human Services, n.d.-b)

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- Health Information Technology for Economic and Clinical Health Act of 2009 (HITECH; U.S. Department of Health and Human Services, n.d.-a)
- Family Educational Rights and Privacy Act of 1974 (FERPA; U.S. Department of Education, n.d.)

States may also have privacy or security requirements that are more stringent than federal requirements. See ASHA's resource on Health Insurance Portability and Accountability Act for general information about HIPAA. See also ASHA's resources on HIPAA Security Rule: Frequently Asked Questions, HIPAA: Electronic Data Interchange (EDI) Rule, and HIPAA Security Technical Safeguards.

Determining how to be compliant with these regulations is complex. There are no absolute standards that dictate which software programs meet all requirements. For example, a vendor cannot guarantee that a product is HIPAA compliant because the provider's policies and how a provider implements a given program helps determine the effectiveness of the program's privacy and security measures. Consulting an expert who specializes in these issues is advisable. Further discussion of the complexities of privacy is provided by Cohn and Watzlaf, 2011.

Security of treatment rooms and remote access to electronic documentation must be considered to protect client privacy and confidentiality at both sites. Clients should be given an opportunity to decide who should be present at their locations when they receive services, and a camera may be used to scan the clinician's environment to ensure privacy. All persons in rooms at both sites should be identified prior to each session or when the individual(s) enters the session.

To manage risk, clinicians are advised to obtain documentation of informed consent from the client. This may include a description of the equipment and services to be delivered, how services via telepractice may differ from services delivered in person, the individual's right to revert to traditional face-to-face care at any time, any modifications that will be made in assessment protocols, and potential confidentiality issues. Documentation may also include the type(s) of equipment used, the identity of every person present, the location of the client and clinician, and the type and rate of transmission.

It is the clinician's role to ensure client confidentiality when telepractice services are used. In order to do so, clinicians must have knowledge of

ASHA

- state and federal regulations pertaining to electronic storage of consumer information for local computer servers and local area networks, servers shared by wide area networks, and servers accessible by Internet users;
- types of technologies with privacy protections, including new or evolving forms of software and hardware solutions to ensure consumer privacy (e.g., encryption, VPN, firewalls);
- the need for telepractice software and hardware applications to be configured for use with encryption, VPN, or firewall applications;
- applications of VPN software, including downloading and configuring VPN software for modem and satellite connections;
- principles for training support and professional personnel concerning appropriate local standards for privacy of health care information of consumers; and
- breach notification policy.

Enlisting Stakeholder Support

When implementing a telepractice program, it is essential for practitioners to gain the support of stakeholders, including clinicians, administrators, sponsors/payers, technical and support staff, teachers, multidisciplinary team members, students and parents, and clients and family members/caregivers. Without mutual understanding, collaboration, and a receptive attitude toward telepractice on the part of all stakeholders, a telepractice program can fail.

Methods for enlisting support include

- adding telepractice to the organization's strategic plan to ensure administrative support and adequate allocation of resources;
- integrating telepractice program needs into existing organizational processes, personnel networks, and training activities;
- conducting pre-implementation planning with technical support staff to troubleshoot firewall and bandwidth issues;
- learning about and advocating for reimbursement mechanisms to sustain telepractice programs;
- educating staff on roles and responsibilities and the organization's plan for provider training, quality assurance, provider and client/caregiver/student/parent satisfaction, and ongoing program development; and

ASHA

- conducting outreach to the community, including satisfaction surveys.

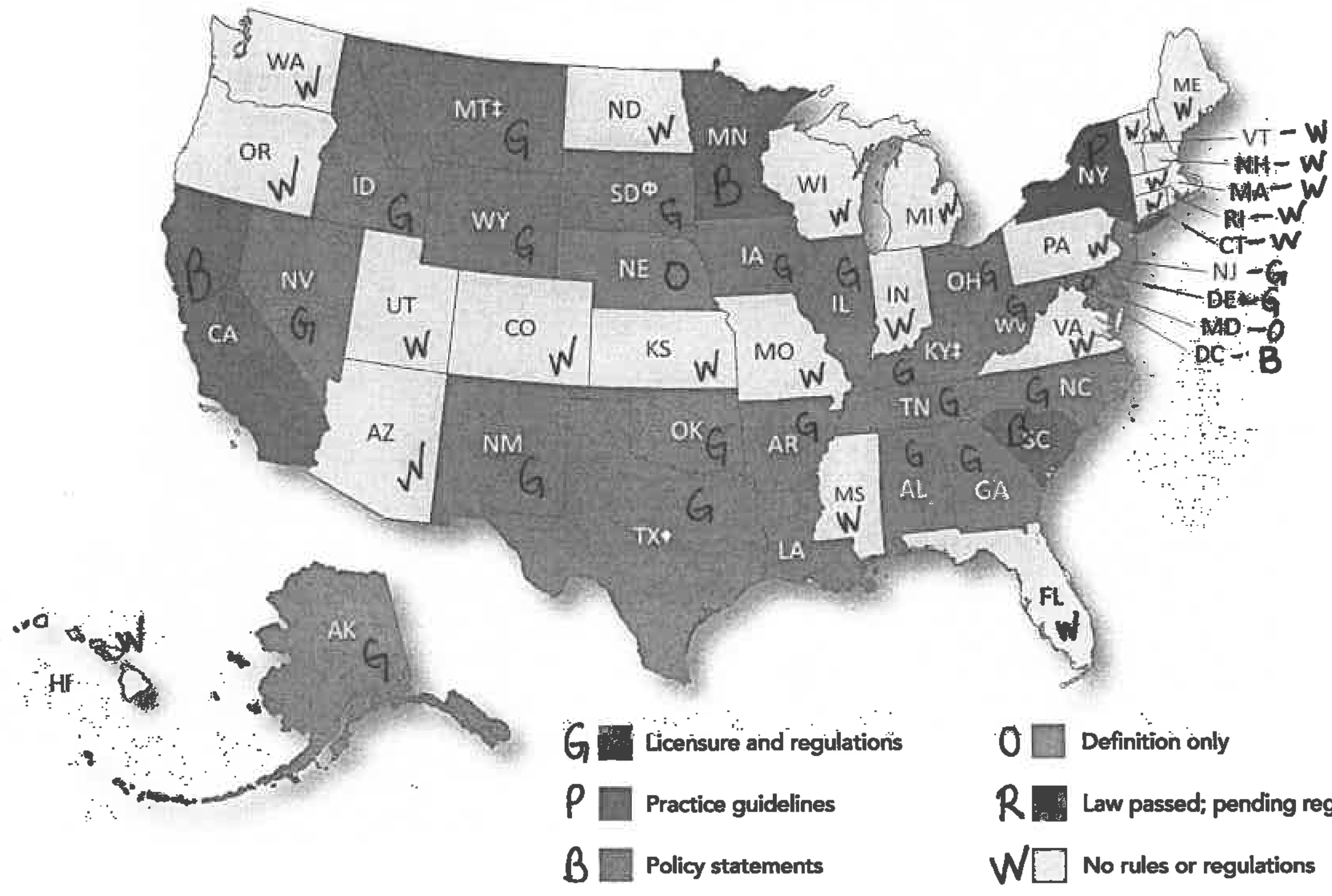
Employment in Telepractice

Telepractice may be one aspect of an institution's or company's services, or it may be the exclusive focus. Because telepractice is a relatively new area of service delivery, audiologists and SLPs have questioned how to determine whether a prospective employer provides appropriate training and support enabling them to deliver high-quality services.

The following are questions that could be explored by a potential telepractitioner:

- How do the employer's policies and technology protect client privacy and security?
- How does the employer support and facilitate communication with other stakeholders outside the therapy session (e.g., teachers, family members, rehab team, IEP meetings)?
- What features does the employer's system offer (e.g., camera zoom, picture-in-picture)?
- Does the employer have business associate agreements, particularly if it shares Protected Health Information (PHI) with third party payers?
- What training is provided to the clinician, and does the clinician have to demonstrate competencies in the use and knowledge of telepractice that align with ASHA's guidance?
- What kind of ongoing technical and clinical support is provided by the employer to the clinician?
- Who is responsible for the facilitator (e.g., teacher's aide, audiology assistant or speech-language pathology assistant, other support personnel, or interpreter)?
- Does the employer have a process for evaluating telepractice sessions to ensure that the quality of service is the same as that provided by in-person service?
- Does the employer provide malpractice insurance?
- Does the employer assist with securing additional state licenses if the practice is to be multistate?
- Does the employer benchmark telepractice outcomes with on-site (traditional) outcomes to ensure equivalent levels of service?

Licensure Board
Telepractice Requirements
Audiology & Speech-Language Pathology



* requires some in-person therapy and in-person evaluation
‡ requires in-person evaluation
♦ requires some in-person therapy
Φ provided only for speech-language pathology

ASHA American Speech-Language-Hearing Association

North Carolina

21 NCAC 64 .0219 TELEPRACTICE

(a) Licensees may evaluate and treat patients receiving clinical services in North Carolina by utilizing telepractice. Telepractice means the use of telecommunications and information technologies for the exchange of encrypted patient data, obtained through real-time interaction, from one site to another for the provision of speech and language pathology and audiology services to patients through hardwire or internet connection.

(b) Telepractice shall be obtained in real time and in a manner sufficient to ensure patient confidentiality.

(c) Telepractice is subject to the same standard of practice as if the person being treated were physically present with the licensee. Telepractice is the responsibility of the licensee and shall not be delegated.

(d) Licensees and staff involved in telepractice must be trained in the use of telepractice equipment.

History note: Authority G.S. 90-304-(a)(3);
Eff. September 1, 2010.

Kentucky

201 KAR 17:110. Telehealth and telepractice.

RELATES TO: KRS 334A.200

STATUTORY AUTHORITY: KRS 334A.200

NECESSITY, FUNCTION, AND CONFORMITY: KRS 334A.200 requires the Board of Speech Language Pathology and Audiology to promulgate administrative regulations to implement the use of telehealth services by speech-language pathologists and audiologists. This administrative regulation establishes requirements for the use of telehealth services.

Section 1. Definitions. (1) "Client" means the person receiving the services of the speech-language pathologist or audiologist and the representative thereof if required by law.

(2) "Telehealth" is defined by KRS 334A.200(3).

(3) "Telepractice" means the practice of speech language pathology or audiology as defined by KRS 334A.020(4) and KRS 334.020(6) respectively provided by using communication technology that is two (2) way, interactive, and simultaneously audio and video.

Section 2. Client Requirements. A practitioner-patient relationship shall not commence via telehealth. An initial, in-person meeting for the practitioner and patient who prospectively utilize telehealth shall occur. A licensed health care practitioner may represent the licensee at the initial, in-person meeting. A licensee who uses telehealth to deliver speech language pathology or audiology services or who telepractices or the licensed healthcare practitioner representing the licensee shall, at the initial, in-person meeting with the client:

(1) Make reasonable attempts to verify the identity of the client;

(2) Obtain alternative means of contacting the client other than electronically;

(3) Provide to the client alternative means of contacting the licensee other than electronically;

(4) Document if the client has the necessary knowledge and skills to benefit from the type of telepractice provided by the licensee; and

(5) Inform the client in writing about:

(a) The limitations of using technology in the provision of telepractice;

(b) Potential risks to confidentiality of information due to technology in the provision of telepractice;

(c) Potential risks of disruption in the use of telepractice;

(d) When and how the licensee will respond to routine electronic messages;

(e) In what circumstances the licensee will use alternative communications for emergency purposes;

(f) Who else may have access to client communications with the licensee;

(g) How communications can be directed to a specific licensee;

(h) How the licensee stores electronic communications from the client; and

(i) That the licensee may elect to discontinue the provision of services through telehealth.

Section 3. Competence, Limits on Practice, Maintenance, and Retention of Records. A licensee using telehealth to deliver services or who telepractices shall:

(1) Limit the telepractice to the licensee's scope of practice;

(2) Maintain continuing competency or associate with a group who has experience in telehealth delivery of care;

(3) Use methods for protecting health information which shall include authentication and encryption technology;

(4) Limit access to that information to only those necessary for the provision of services or those required by law; and

Kentucky

(5) Ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the licensee disposes of electronic equipment and data.

Section 4. Compliance with Federal, State, and Local Law. (1) A licensee using telehealth to deliver speech language pathology and audiology services and telepractice shall comply with:

(a) State law by being licensed to practice speech language pathology or audiology, whichever is being telepracticed, in the jurisdiction where the practitioner-patient relationship commenced; and

(b) Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a client with disabilities.

(2) If a person provides speech language pathology and audiology services via telepractice to a person physically located in Kentucky at the time the services are provided, that provider shall be licensed by the board.

(3) A person providing speech language pathology and audiology services via telepractice from a physical location in Kentucky shall be licensed by the board. This person may be subject to licensure requirements in other states where the services are received by the client.

Section 5. Representation of Services and Code of Conduct. A licensee using telehealth to deliver services or who telepractices:

(1) Shall not engage in false, misleading, or deceptive advertising of telepractice; and

(2) Shall not split fees. (39 Ky.R. 918; 1463; 1680; eff. 3-8-2013.)

WV

West Virginia

§29-1-15. Telepractice

15.1 Definitions.

15.1.a. "Asynchronous" is defined as images or data that are captured and transmitted for later review by a provider.

15.1.b. "Client/Patient" is defined as a consumer of telepractice services.

15.1.c. "Facilitator" is defined as the individual at the client site who facilitates the telepractice service delivery at the direction of the speech-language pathologist or audiologist. For purposes of fulfilling the facilitator role at the direction of the speech-language pathologist or audiologist, an individual does not have to become licensed as an aide.

15.1.d. "Provider" is defined as a speech-language pathologist or audiologist, fully licensed by the board, who provides telepractice services.

15.1.e. "Service Delivery Model" is defined as the method of providing telepractice services.

15.1.f. "Site" is defined as the client/patient location for receiving telepractice services.

15.1.g. "Stored Clinical Data" is defined as video clips, sound/audio files, photo images, electronic records, and written records that may be available for transmission via telepractice communications.

15.1.h. "Synchronous" is defined as interactive audio and video telepractice service occurring in real time.

15.1.i. "Telepractice Service" is defined as the application of telecommunication technology to deliver speech-language pathology and/or audiology services at a distance for assessment, intervention and/or consultation.

15.2. Service Delivery Models

15.2.a. Telepractice Services may be delivered in a variety of ways, including, but not limited to those set out in this section.

15.2.a.1. Store-and-forward model/is the asynchronous capture and transmission of clinical data from one location to a provider.

WV

15.2.a.2. Synchronous clinician interactive model is a real time interaction between the provider and client/patient that may occur via encrypted audio and video transmission over telecommunication links including, but not limited to, videoconferencing.

15.3. Guidelines for Use of Facilitators

15.3.a Facilitators may be used to assist clients on site when telepractice services are provided. The Speech-Language Pathologist or Audiologist is responsible for conducting the session and directing the activities of the facilitator. The facilitator may be a teacher's aide, a nursing assistant, a speech- language pathology or audiology assistant or other type of support personnel.

15.3.b. The Speech-Language Pathologist or Audiologist is responsible for ensuring the facilitator is appropriately trained to provide the type of assistance needed. Activities may include:

15.3.b.1. Escorting client/patient or student to and from sessions;

15.3.b.2. Establishing and troubleshooting the telepractice connection;

15.3.b.3. Setting up therapy materials;

15.3.b.4. Positioning the client/patient at the direction of the Speech-Language Pathologist or Audiologist;

15.3.b.5. Remaining with the client/patient or student during sessions;

15.3.b.6. Assisting with behavior management, as needed;

15.3.b.7. Communicating with on-site staff or teachers about scheduling, and

15.3.b.8. In some instances serving as the interpreter.

15.4. Guidelines for Use of Telepractice.

15.4.a. The provider shall comply with the West Virginia Board of Examiners for Speech-Language Pathology and Audiology Code of Ethics as set forth in 29CSR5 and Scope Practice requirements set forth in West Virginia Code §30-32-13 & §30-32-14, when providing telepractice services. Failure to comply will be grounds for disciplinary action as described in West Virginia Code
§30-32-19.

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15.4.b. Telepractice services delivered via telecommunication technology must be equivalent to the quality, scope and nature of services delivered face-to-face, i.e., in person.

15.4.c. The quality of electronic transmissions shall be appropriate for the delivery of telepractice services as if those services were provided in person.

15.4.d. Providers must have the knowledge and skills to competently deliver services via telecommunication technology by virtue of education, training and experience.

15.4.e. Providers are responsible for assessing the client's candidacy for telepractice including behavioral, physical and cognitive abilities to participate in services provided via telecommunications.

15.4.f. A provider shall be sensitive to cultural and linguistic variables that affect the identification, assessment, treatment and management of the clients/patients.

15.4.g. Equipment used for the delivery of telepractice services at the provider site shall be maintained in appropriate operational status to provide appropriate quality of services.

15.4.h. Equipment used at the client/patient site shall be in appropriate working condition and deemed appropriate by the provider.

15.4.i. As pertaining to liability and malpractice issues, a provider shall be held to the same standards of practice as if the telepractice services were provided in person.

15.4.j. Telepractice providers shall comply with all laws, rules and regulations governing the maintenance of patient/client records, including patient/client confidentiality requirements, regardless of the state where the records of any patient/client within this state are maintained.

15.4.k. Notification of telepractice services should be provided to the patient/client, the guardian, the caregiver, and the multi-disciplinary team, if appropriate. The notification shall include, but not be limited to: the right to refuse telepractice services and options for service delivery.

15.5. Limitations of Telepractice Services

15.5.1. Telepractice services shall not be provided by correspondence only, e.g., mail, email, fax, although they may adjuncts to telepractice.

15.5.2. Telepractice services shall not be provided by:

15.5.2.a. Speech Pathologists with a provisional license while completing a postgraduate professional experience/clinical fellowship year.

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15.5.2.b. Speech Pathology or Audiology Assistants

15.6. Licensure Requirements for Providing Telepractice Services.

15.6.1. A provider of telepractice services who practices in this State shall be licensed by the Board, per license requirements set forth in WV Code, §30-32-9., §30-32-10. & WV Code Rules §29-1.

15.6.2. A provider of telepractice services who resides out of this State and who provides telepractice services to clients/patients in West Virginia shall be licensed by the Board, per license requirements set forth in WV Code, §30-32-9. & §30-32-10. & WV Code Rules §29-1.

15.6.3. A provider of telepractice services shall be competent in both the type of services provided and the methodology and equipment used to provide the services

Texas

SUBCHAPTER V. TELEHEALTH.

111.210. Definitions Relating to Telehealth. *(New section adopted effective October 1, 2016,41 TexReg 4441)*

Unless the context clearly indicates otherwise, the following words and terms, when used in this subchapter, shall have the following meanings.

- (1) Client--A consumer or proposed consumer of speech-language pathology or audiology services.
- (2) Client site--The physical location of the client at the time the services are being furnished via telecommunications.
- (3) Consultant--Any professional who collaborates with a provider of telehealth services to provide services to clients.
- (4) Facilitator--The individual at the client site who assists with the delivery of the telehealth services at the direction of the audiologist or speech-language pathologist.
- (5) Provider--An individual who holds a current, renewable, unrestricted speech-language pathology or audiology license under Texas Occupations Code §401.302 and §401.304; or an individual who holds an audiology intern license under Texas Occupations Code §401.311.
- (6) Provider site--The physical location at which the speech-language pathologist or audiologist delivering the services is located at the time the services are provided via telecommunications which is distant or remote from the client site.
- (7) Telecommunications--Interactive communication at a distance by concurrent two-way transmission, using telecommunications technology, of information, including, without limitation, sound, visual images, and/or computer data, between the client site and the provider site, and required to occur without a change in the form or content of the information, as sent and received, other than through encoding or encryption of the transmission itself for purposes of and to protect the transmission.
- (8) Telecommunications technology--Computers and equipment, other than telephone, email or facsimile technology and equipment, used or capable of use for purposes of telecommunications. For purposes of this subchapter, the term includes, without limitation:
  - (A) compressed digital interactive video, audio, or data transmission;
  - (B) clinical data transmission using computer imaging by way of still-image capture and storage and forward; and
  - (C) other technology that facilitates the delivery of telepractice services.
- (9) Telehealth--The use of telecommunications and information technologies for the exchange of information from one site to another for the provision of speech-language pathology or audiology services to a client from a provider.

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- (10) Telehealth services--The application of telecommunication technology to deliver speech-language pathology and/or audiology services at a distance for assessment, intervention, and/or consultation.
- (11) Telepractice--The use of telecommunications technology by a license holder for an assessment, intervention, or consultation regarding a speech-language pathology or audiology client.
- (12) Telepractice services--The rendering of audiology and/or speech-language pathology services through telepractice to a client who is physically located at a site other than the site where the provider is located.

111.211. Service Delivery Models of Speech-Language Pathologists. *(New section adopted effective October 1, 2016,41 TexReg 4441)*

- (a) Telehealth may be delivered in a variety of ways, including, but not limited to those set out in this section.
  - (1) Store-and-forward model/electronic transmission is an asynchronous electronic transmission of stored clinical data from one location to another.
  - (2) Clinician interactive model is a synchronous, real time interaction between the provider and client or consultant that may occur via telecommunication links.
- (b) Self-monitoring/testing model refers to when the client or consultant receiving the services provides data to the provider without a facilitator present at the site of the client or consultant.
- (c) Live versus stored data refers to the actual data transmitted during the telepractice. Both live, real-time and stored clinical data may be included during the telepractice.

111.212. Requirements for the Use of Telehealth by Speech-Language Pathologists. *(New section adopted effective October 1, 2016,41 TexReg 4441; amended effective May 1, 2018, 43 TexReg 2561)*

- (a) The requirements of this section apply to the use of telehealth by speech-language pathologists.
- (b) A provider shall comply with the commission's Code of Ethics and Scope of Practice requirements when providing telehealth services.
- (c) The scope, nature, and quality of services provided via telehealth are the same as that provided during in-person sessions by the provider.
- (d) The quality of electronic transmissions shall be equally appropriate for the provision of telehealth services as if those services were provided in person.
- (e) A provider shall only utilize technology which they are competent to use as part of their telehealth services.
- (f) Equipment used for telehealth services at the clinician site shall be maintained in appropriate operational status to provide appropriate quality of services.

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- (g) Equipment used at the client/patient site at which the client or consultant is present shall be in appropriate working condition and deemed appropriate by the provider.
- (h) The initial contact between a licensed speech-language pathologist and client may be at the same physical location or through telehealth/telepractice, as determined appropriate by the licensed speech-language pathologist.
- (i) A provider shall consider relevant factors including the client's behavioral, physical, and cognitive abilities in determining the appropriateness of providing services via telehealth/telepractice.
- (j) A provider shall be aware of the client or consultant level of comfort with the technology being used as part of the telehealth services and adjust their practice to maximize the client or consultant level of comfort.
- (k) When a provider collaborates with a consultant from another state in which the telepractice services are delivered, the consultant in the state in which the client receives services shall be the primary care provider for the client.
- (l) As pertaining to liability and malpractice issues, a provider shall be held to the same standards of practice as if the telehealth services were provided in person.
- (m) A provider shall be sensitive to cultural and linguistic variables that affect the identification, assessment, treatment, and management of the clients.
- (n) Upon request, a provider shall submit to the department data which evaluates effectiveness of services provided via telehealth including, but not limited to, outcome measures.
- (o) Telehealth providers shall comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements, regardless of the state where the records of any client within this state are maintained.
- (p) Notification of telehealth services shall be provided to the client, the guardian, the caregiver, and the multi-disciplinary team, if appropriate. The notification shall include, but not be limited to: the right to refuse telehealth services, options for service delivery, and instructions on filing and resolving complaints.

111.213. Limitations on the Use of Telecommunications Technology by Speech-Language Pathologists. *(New section adopted effective October 1, 2016,41 TexReg 4441; amended effective May 1, 2018, 43 TexReg 2544)*

- (a) The limitations of this section apply to the use of telecommunications technology by speech-language pathologists.
- (b) Supervision of a licensed assistant in speech-language pathology may be undertaken through the use of telecommunications technology as described under §111.51 and as follows:
    - (1) no more than two (2) hours of direct supervision per month shall be undertaken through the use of telecommunications technology; and

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    - (2) no more than six (6) total hours of supervision per month shall be undertaken through the use of telecommunications technology.

- (c) Direct supervision of a licensed intern in speech-language pathology shall not be undertaken through the use of telecommunications technology.
- (d) Telehealth services may not be provided by correspondence only, e.g., mail, email, faxes, although they may be adjuncts to telepractice.

111.214. Requirements for Providing Telehealth Services in Speech-Language Pathology. *(New section adopted effective October 1, 2016,41 TexReg 4441)*

- (a) A provider of telehealth services who practices in the State of Texas shall be licensed by the department.
- (b) A provider of telehealth services shall be competent in both the type of services provided and the methodology and equipment used to provide the service.

111.215. Requirements for Providing Telepractice Services in Audiology. *(New section adopted effective October 1, 2016,41 TexReg 4441)*

- (a) Unless otherwise legally authorized to do so, an individual shall not render telepractice services in audiology from the State of Texas or to a client in the State of Texas, unless the individual qualifies as a provider as that term is defined in this subchapter and renders only those telepractice services that are within the course and scope of the provider's licensure and competence, and delivered in accordance with the requirements of that licensure and pursuant to the terms and conditions set forth in this section.
- (b) The provider shall use only telecommunications technology that meets the definition of that term, as defined in this subchapter, to render telepractice services. Modes of communication that do not utilize such telecommunications technology, including facsimile and email, may be used only as adjuncts.
- (c) Subject to the requirements and limitations of this section, a provider may utilize a facilitator at the client site to assist the provider in rendering telepractice services.
- (d) The provider shall be present at the provider site and shall be visible and audible to, and able to see and hear the client and the facilitator via telecommunications technology in synchronous, real-time interactions, even when receiving or sending data and other telecommunication transmissions in carrying out the telepractice services. The provider is responsible for the actions of the facilitator and shall monitor the client and oversee and direct the facilitator at all times during the telepractice session.
- (e) The provider of telepractice services, prior to allowing a facilitator to assist the provider in rendering telepractice services, shall verify and document the facilitator's qualifications, training, and competence in each task the provider directs the facilitator to perform at the client site, and in the methodology and equipment the facilitator is to use at the client site.
- (f) The facilitator may perform at the client site only the following tasks:

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- (1) those physical, administrative, and other tasks for which the provider has trained the facilitator in connection with the rendering of audiology services for which no form of license, permit, authorization or exemption under the Texas Occupations Code is required; and
- (2) a task for which the facilitator holds and acts in accordance with any license, permit, authorization or exemption required under the Texas Occupations Code to perform the task.

- (g) A provider shall not render telepractice services to a client in those situations in which the presence of a facilitator is required for safe and effective service to the client and no qualified facilitator is available to the client during the telepractice session.
- (h) The scope, nature, and quality of the telepractice services provided, including the assistance provided by the facilitator, shall be commensurate with the services the provider renders in person at the same physical location as the client.
- (i) The provider shall not render telepractice services unless the telecommunications technology and equipment located at the client site and at the provider site are appropriate to the telepractice services to be rendered; are properly calibrated and in good working order; and are of sufficient quality to allow the provider to deliver equivalent audiology service and quality to the client as if those services were provided in person at the same physical location. The provider shall only utilize telecommunications technology and other equipment for the provider's telepractice which the provider is competent to use.
- (j) Providers and facilitators involved in the provider's delivery of telepractice services shall comply with all laws, rules, and regulations governing the maintenance of client records, including client confidentiality requirements. Documentation of telepractice services shall include documentation of the date and nature of services performed by the provider by telepractice and of the assistive tasks of the facilitator.
- (k) Except to the extent it imposes additional or more stringent requirements, this section does not affect the applicability of any other requirement or provision of law to which an individual is otherwise subject under this chapter or other law.

111.216. Limitations on the Use of Telecommunications Technology by Audiologists.. *(New section adopted effective May 1, 2018, 43 TexReg 2544)*

- (a) The limitations of this section apply to the use of telecommunications technology by audiologists.
- (b) Supervision of a licensed assistant in audiology may be undertaken through the use of telecommunications technology as described under §111.91, except for duties described under §§111.92(c)(1) - (4) where the supervisor must provide in-person, direct supervision.
- (c) Telehealth services may not be provided by correspondence only, e.g., mail, email, faxes, although they may be adjuncts to telepractice.

SC Board of Examiners in SLP/Aud Telepractice FAQs

Q. What is telepractice?

A. American Speech-Language -Hearing Association ("ASHA") defines telepractice as the application of telecommunications technology to the delivery of speech language pathology and audiology professional services at a distance by linking practitioner to client or practitioner to practitioner for assessment, intervention, and/or consultation.

Q. In what settings is telepractice used?

A. According to ASHA, telepractice venues can include schools, medical centers, rehabilitation hospitals, community health centers, outpatient clinics, universities, clients' homes, residential health care facilities, child care centers, and corporate settings. Before offering telepractice services, the practitioner should ensure that the proposed method and setting comply with national, state, institutional, and professional regulations and policies. See *ASHA State-by-State* for state requirements at the following link: https://www.asha.org/Advocacy/state/default/

Q. Is telepractice practice allowed in SC?

A. Yes, see the Board's policy at the following link: https://www.llr.sc.gov/POL/Speech/index.asp?file=laws.htm

Q. Where does the initial evaluation need to be completed?

A. Before engaging in telepractice, a client must first be evaluated in person by a South Carolina licensed practitioner.

Q. Does the Board control billing and reimbursement for telepractice?

A. No, the Board does not control billing or reimbursement for any services provided to clients. However, it suggested that billing and third party reimbursement are factors that should be evaluated by the practitioner before engaging in telepractice.

Q. Can a practitioner licensed in another state provide services to a client in located in South Carolina?

A. No. Services provided to clients in South Carolina that require a license must be provided by a practitioner licensed in South Carolina.

Q. If a practitioner is licensed in South Carolina, can they provide telepractice services to a client in another state?

A. Licensed practitioners must check the state licensing requirements for the state where the client is located.

Q. What are the ethical issues concerning telepractice?

A. ASHA recommends that practitioners who provide telepractice services comply with the ASHA *Code of Ethics* (ASHA, 2016a). The specific principles identified by ASHA as affecting telepractice can be found at the following link: https://www.asha.org/PRPSpecificTopic.aspx?folderid=8589934956§ion=Key_Issues#Ethical_Considerations

Q. Is a practitioner licensed in another state who provides telepractice services in a South Carolina school setting required to have a South Carolina license?

A. A practitioner working for a telepractice company that has contracted with a South Carolina school to provide services is required to have a South Carolina license. A practitioner that is *not* an *employee* of a state or federal agency or a South Carolina political subdivision is *not* exempt from licensing requirements. See S.C. Code Ann. § 40-67-300 at the following link: https://www.scstatehouse.gov/code/t40c067.php

Q. What factors should be considered when determining if telepractice is appropriate for a particular client?

A. Please see the telepractice candidacy factors identified by ASHA at the following link: https://www.asha.org/PRPSpecificTopic.aspx?folderid=8589934956§ion=Key_Issues#Client_Selection

Q. What are the technological requirements to engage in telepractice?

A. Please see ASHA's recommendations on the use of technology at the following link: https://www.asha.org/PRPSpecificTopic.aspx?folderid=8589934956§ion=Key_Issues#Telepractice_Technology

Q. How can I store and transmit client information during telepractice?

A. Please see ASHA's recommendations for privacy and security of client information at the following link: https://www.asha.org/PRPSpecificTopic.aspx?folderid=8589934956§ion=Key_Issues#Privacy_and_Security

South Carolina Board of Examiners in Speech-Language Pathology and Audiology Policy Regarding Telepractice

Pursuant to S.C. Code Ann. § 40-67-70, the South Carolina Board of Examiners in Speech-Language Pathology and Audiology ("Board") is responsible for the regulation and discipline of speech-language pathology and audiology licenses issued in South Carolina. Further, § 40-67-70 (2) authorizes the Board to establish policies and procedures necessary to carry out its duties in accordance with the Practice Act.

S.C. Code Ann. § 40-67-110 sets forth the actions warranting disciplinary action against South Carolina licensees. With the advent of telepractice in many dimensions of healthcare, the Board has been asked to interpret whether it is unprofessional conduct for a South Carolina licensed speech-language pathologist or audiologist to engage in telepractice. The statutory language in question is found in §40-67-110(7)(d), which states:

> "In addition to grounds for disciplinary action as set forth in Section 40-1-110 and in accordance with Section 40-67-120, the board may take disciplinary action against a licensee who:
> (7) commits an act of dishonest, immoral, or unprofessional conduct while engaging in the practice of speech-language pathology or audiology including, but not limited to:
> (d) diagnosing or treating individuals for speech or hearing disorders by mail or telephone unless the individual had been previously examined by the licensee and the diagnosis or treatment is related to the examination."

The American Speech-Language-Hearing Association ("ASHA") has developed a comprehensive Telepractice Overview, which can be accessed at www.asha.org. The materials compiled by ASHA include Ethical Considerations and general guidelines for the telepractice roles and responsibilities of the licensee, as well as the remote facilitator. The Board endorses the guidelines developed by ASHA, subject to the following considerations specific to South Carolina law.

First, the Board does not believe it is unprofessional conduct for a licensee to utilize telepractice so long as the initial evaluation is conducted in person and the licensee has determined during the initial evaluation that subsequent treatment is appropriate for telepractice. Should the licensee determine that the client is ineligible for subsequent treatment via telepractice during the initial evaluation or at any point during the course of treatment, traditional in-person treatment shall resume as the licensee deems necessary for the treatment and care of the client. Telepractice services may be provided by the initial evaluator licensee or another qualified speech-language pathology or audiology licensee pursuant to a treatment plan arising out of the initial, in person evaluation.

Second, the Board maintains that practice occurs where the client is located. Accordingly, anyone providing services that fall within the scope of practice of speech-language or audiology as defined in the Practice Act to clients located in the State of South Carolina must be licensed in South Carolina, as well as the jurisdiction in which the licensee is physically located at the time services are offered.

However, the Board only has jurisdiction to discipline practitioners in South Carolina who are engaged in a scope of practice for which a license is required and who are licensed. For example, individuals who are exempt from licensure pursuant to § 40-67-300 are not subject to disciplinary action by this Board and, therefore, are exempt from the guidance provided by this statement on telepractice as well. If, however, an otherwise exempt individual is licensed by the Board, he or she is subject to the Board's jurisdiction at all times.

Finally, the Board acknowledges that healthcare technology is advancing very quickly. The Board urges its licensees to bear in mind that the quality of care and client safety must be the licensee's primary concern at all times. It is the Board's responsibility to promote access to care and facilitate efficient and affordable treatment whenever possible, while maintaining the highest professional standards. These guidelines are offered to the Board's licensees with these principles in mind.

New York

Practice Guidelines

Law, rules and regulations, not guidelines, specify the requirements for practice and violating them constitutes professional misconduct. Not adhering to this guideline may be interpreted as professional misconduct only if the conduct also violates pertinent law, rules and regulations.

Engaging in Telepractice in the Speech-Language Pathology & Audiology Professions

OVERVIEW:

"Telepractice" is providing service that is not "in person" and is delivered through the use of technology. Such technology may include, but is not limited to: telephone, telefax, email, internet, or videoconference. It is considered a mode of practice and the same standards that apply to all forms of practice in the speech-language pathology and audiology professions would apply to telepractice. With reference to speech-language pathology and audiology, telepractice is the use of technology for the application of speech language pathology and audiology services over a distance by connecting a qualified and licensed clinician to a client or one clinician to another for assessment, treatment, and/or consultation. Telepractice is a permitted modality in New York State, subject to certain restrictions and conditions and when used as a form of speech-language pathology or audiology practice, is subject to the following:

- All the current standards of care;
- All the laws, rules and regulations, governing speech-language pathology and/or audiology practice in New York State; and
- All the practice and ethical considerations

PRACTICE RESTRICTIONS:

Message for Consumers: If you are a New York State resident receiving speech-language pathology or audiology services in New York State, your Speech Language Pathologist or Audiologist must be licensed in New York State.

Message for New York State licensed Speech-Language Pathologists and Audiologists: If you intend to provide telepractice services to clients residing outside of New York State, you must comply with the professional statutory and regulatory requirements of your client's state or country of residence.

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Message for Out-of-State Speech-Language Pathologists and Audiologists: If you intend to provide telepractice services to a resident of New York State, you must hold a New York State license and be in compliance with the relevant law, rules and regulations.

New York State law permits a person from another state to perform speech-language pathology or audiology services in this State, as long as such services are performed for no more than thirty (30) days in any calendar year and provided that such services are performed in conjunction with and/or under the supervision of Speech-Language Pathologist or Audiologist licensed under Article 159 of the New York State Education Law.

PROFESSIONAL ROLES AND RESPONSIBILITIES:

Although telepractice is a permitted modality in New York State, you should consider the particular impact of telepractice on the provision of speech-pathology or audiology services, including, but, not limited to:

- selecting clients who are appropriate for assessment and intervention services via telepractice;
- selecting and using assessments and interventions that are appropriate to the technology being used and that take into consideration the client and disorder variables;
- maintaining appropriate documentation, including informed consent (risks and benefits) for use of telepractice which includes a client agreement to use a private environment with a secure connection, and documentation of the telepractice encounter;
- complying with all New York State, HIPAA and FERPA requirements regarding the maintenance of patient records and the confidentiality of patient information;
- understanding and applying appropriate models of technology used to deliver services;
- understanding the appropriate specifications and operations of technology used in the delivery of services;
- calibrating and maintaining clinical instruments and telepractice/telehealth equipment;
- being sensitive to cultural and linguistic variables that affect the identification, assessment, treatment and management of individuals receiving services via telepractice;
- training and using other qualified individuals appropriately when delivering services;
- evaluating the effectiveness of services provided and measuring outcomes;
- being knowledgeable and compliant with existing rules and regulations regarding security and privacy protections, reimbursement for services, and licensure, liability and malpractice concerns;

NY

- ensuring the confidentiality and privacy of patients and their transmissions, as well as the protection of confidential information through the transmission of information; and
- collaborating with physicians for timely referral and follow-up services, as necessary.

Although telepractice is permitted in New York State, it may not be considered appropriate for certain types of clients and/or in certain types of settings. Thus, before engaging in telepractice, a clinician should make sure that he or she is aware of any and all guidelines, policies, laws, rules and/or regulations that may prohibit or limit the use of telepractice for certain types of clients and/or in certain types of settings.

Guidelines for the use of speech-language telepractice in the delivery of related services to students with disabilities in New York State can be found at: http://www.p12.nysed.gov/specialed/publications/2015-memos/speech-language-telepractice.html

RESOURCES:

Telepractice is an emerging area in the fields of Speech-Language Pathology and Audiology. As technology advances, so do the available options for service provision. Therefore, it should be considered a matter of professional responsibility that those providing telepractice services obtain continuing education in the area of telepractice.

Below is a list of suggested resources that can be used to explore current best practices and efficacy of treatment methods. Note that the legal practice of the professions varies from state to state, so that not all national standards or guidelines may be applicable in New York State.

- The American Speech-Language-Hearing Association's (ASHA) Professional Issues
- ASHA Special Interest Group 18 for Telepractice
- American Telemedicine Association
- Northeast Telehealth Resource Center: New York Legislative Update
- US Department of Health and Human Services: Health Resources and Service Administration
- American Academy of Audiology
- Health Information Privacy (HIPPA Act)

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