Board of Behavioral Sciences

1625 North Market Blvd., Suite S-200
Sacramento, CA 95834
(916) 574-7830
www.bbs.ca.gov

Gavin Newsom, Governor
State of California

Business, Consumer Services and Housing Agency
Department of Consumer Affairs

Updated Statement on Telehealth to Reflect Governor's Executive Order N-43-20

New Telehealth Information Pursuant to Executive Order N-43-20

The Governor's new Executive Order, N-43-20, issued on April 3, 2020, does the following:

1. Suspends the requirements specified in Business and Professions Code (BPC) section 2290.5(b). BPC §2290.5(b) states the following:

   (b) Before the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

2. Acknowledges and permits compliance with the current federal order issued by the Office for Civil Rights in the U.S. Department of Health and Human Services (issued March 17, 2020). This means that if you are a "covered health care provider" subject to the HIPAA Rules and described in the "Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency" ("Notification"), your delivery of telehealth services is permitted to be consistent with that Notification. Where the Notification encourages particular measures to safeguard patient privacy, but does not require such measures, covered health care providers shall give due consideration to such measures and shall endeavor to adopt them to the extent possible.

The following link on the Board's website contains further information about the Notification, and contains a link to the U.S. Department of Health and Human Services' full announcement.

The full text of Executive Order N-43-20 can be found here.

Board Licensees, Registrants, and Trainees and Telehealth

Except for the items discussed above from the Executive Order, Board licensees, registered associates, and trainees utilizing telehealth are still required to comply with the laws and regulations related to telehealth. The Board strongly urges review of its statutes and regulations related to telehealth to ensure compliance with the law. These can be found by visiting the following link and clicking on "Telehealth": https://bbs.ca.gov/licensees/hipaa.html

Licensees and Telehealth

All California licensed marriage and family therapists, educational psychologists, clinical social workers, and professional clinical counselors are permitted to perform services with clients who are located in California via telehealth.

Associates and Telehealth

All associate marriage and family therapists, associate clinical social workers, and associate professional clinical counselors who are registered in California are permitted to perform services via telehealth with clients who are located in California under the supervision of their supervisor.

If the associate is working in a governmental entity, school, college, university, or an institution that is nonprofit and charitable, the required weekly direct supervisor contact may be via two-way, real-time videoconferencing. If the associate is working in a setting other than the types listed above, the law requires the supervisor contact to be in person.

Social Work Interns and Telehealth

The law defines social work interns as individuals enrolled in a master's or doctoral training program in social work in an accredited school or department of social work. These individuals are not yet under the jurisdiction of the Board. It is up to the school and the school's accrediting agency to determine the permissibility of telehealth for social work interns.

Clinical Counselor Trainees and Telehealth

Clinical counselor trainees are unlicensed and unregistered individuals who are currently enrolled in their master's or doctoral degree program designed to qualify them for licensure as a professional clinical counselor, and who have completed at least 12 semester units or 18 quarter units of their degree program.

The law does not prohibit clinical counselor trainees from providing services via telehealth. The school must approve and have a written agreement with the site detailing, among other things, the methods by which supervision shall be provided. Therefore, they may perform services via telehealth and receive supervision via videoconferencing as long as the school allows it.

Marriage and Family Therapist Trainees and Telehealth

Marriage and family therapist trainees are unlicensed and unregistered individuals who are currently enrolled in their master's or doctoral degree program designed to qualify them for licensure as a marriage and family therapist, and who have completed at least 12 semester units or 18 quarter units of their degree program.

MFT trainees are permitted to provide services via telehealth. The school must approve and have an agreement with the site detailing, among other things, the methods by which supervision shall be provided.

MFT trainees can count pre-degree hours toward licensure, so they need to make sure they follow the law regarding counting experience hours. If they are working in a governmental entity, school, college, university, or institution that is nonprofit and charitable, they may obtain supervision via videoconferencing. If they are working in a

setting other than the types listed above, the law requires the supervisor contact to be in person.