ETHICS, PROFESSIONAL BOUNDARIES, CONFIDENTIALITY AND HIPAA WITH TELE-HEALTH SERVICES

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Operation PAR offers a full continuum of services along the West Coast of Florida

Prevention
Intervention
Detoxification
Opioid Use Disorder Treatment-MAPS
Adolescent and Adult Outpatient and Residential Treatment
OPERATION PAR TELE-BEHAVIORAL HEALTH
Demonstrating competency with technology

Minimally, clinicians/counselors using a videoconferencing platform for service delivery should be able to show their capacity to use the technology with basic skills and be able to troubleshoot problems.
SELF ASSESSMENT QUESTIONS FOR CLINICIANS

• Just because I can use tele-behavioral health to conduct counseling/treatment sessions, should I?
• What is my level of competence? (Beginner or Master’s level)?
• Do I need more training and/or supervision?
• Does my practice/organization adhere to any specific tele-behavioral health guidelines?
• What do my state board regulations state about conducting tele-behavioral health?
ENSURING PRIVACY, SECURITY, AND CONFIDENTIALITY

HIPAA Secure – Not HIPAA Compliant Professionals Make Equipment HIPAA Compliant

42 CFR Part 2
INFORMED CONSENT

Nature of Treatment
Risks
Benefits
Alternatives
Opportunity for Question
HAVING A SOCIAL NETWORKING POLICY AS PART OF THE INFORMED CONSENT
SPECIFICALLY, CLINICIANS/COUNSELORS SHOULD BE ABLE TO DO THE FOLLOWING WHEN DELIVERING SERVICES VIRTUALLY

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<tbody>
<tr>
<td>1</td>
<td>Advise and help patients/clients with their use of the selected technology platform</td>
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<td>2</td>
<td>Explain the reasons for their choice of technology platform (e.g., ease of use, affordability, functionality, privacy and security, federal confidentiality 42CFR Part 2 protections, etc.)</td>
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<td>3</td>
<td>Be able to explain to patients the tenets of informed consent specific to tele-behavioral health</td>
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<td>4</td>
<td>Translate clinical skills to provide services virtually (e.g., online engagement, support, pointing out discrepancies, employing EBPs and best practices, making referrals, etc.)</td>
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<td>5</td>
<td>Determine which patients/clients should not receive services using videoconferencing</td>
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Assessing Appropriateness—Prior to COVID-19

- Not every client with internet access should be a behavioral tele-health client
- Not every clinician is a good candidate for behavioral tele-health practice
ASSESSING APPROPRIATENESS

The Clinician:

- Foundation of Clinical Skills
- Experience
- Supervision

Clinicians will be called on for skills and information typically not asked in face-to-face treatment
ASSESSING APPROPRIATENESS

The Client:

- Their feelings about tele-behavioral health
- Computer
- High-Speed Internet Access
- Motivation to participate in tele-behavioral health
- Safety of self and others
- Ability to participate
WHEN IT IS NOT OK TO PARTICIPATE IN TELE-BEHAVIORAL HEALTH

- Actively suicidal/homicidal?
- Psychotic?
- Under the influence/intoxicated?
- Active thought Disorder?
- Not stabilized on medication?
- Inconsistent attendance/consistent cancellations?
CODE OF ETHICS FOR TELE-HEALTH SERVICES

Social Work
Mental Health Counseling
Psychology
Marriage and Family Therapy
Certified Addiction Professionals
Peer Specialists
ETHICAL DILEMMA #1

- Your client logs on for a tele-behavioral health session and is smoking a vape
ETHICAL DILEMMA #2

- You finish a tele-behavioral health session and thought you logged off. You hear your client and partner in what could be a domestic violence incident. What do you do?
ETHICAL DILEMMA # 3

- Your client logs on while driving and says “I didn’t want to miss our session.

- She insists she is comfortable talking and doesn’t see privacy as an issue.
USE OF TELEPHONE AND TEXTING

• As of July 23, 2020 all 50 state Medicaid agencies and Washington D.C. have issued guidance to allow for a form of audio-only tele-health services

• Texting Apps- Signal, Jabber, Facebook Messenger, Google Hangouts, Whatsapp, or iMessage

• Texting patients using SMS texting should not be done
CHAPTER 491 (MH, SW AND MF) REGARDING REGISTERED INTERNS AND TELEHEALTH

The registered intern and their qualified supervisor have determined, through their professional judgements, that providing face-to-face psychotherapy by electronic methods is not detrimental to the patient is necessary to protect the health, safety, or welfare of the patient, the registered intern, or both, and does not violate any existing statutes or regulations.
<table>
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<tr>
<th><strong>Follow</strong></th>
<th>Follow all requirements for ethical conduct from your profession’s code of ethics</th>
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<tbody>
<tr>
<td><strong>Assess</strong></td>
<td>Assess for client appropriateness</td>
</tr>
<tr>
<td><strong>Utilize</strong></td>
<td>Utilize HIPAA secure video conferencing platforms</td>
</tr>
<tr>
<td><strong>Practice</strong></td>
<td>Practice within your scope of practice</td>
</tr>
<tr>
<td><strong>Document</strong></td>
<td>Document all services as you would face-to-face services</td>
</tr>
<tr>
<td><strong>Confirm</strong></td>
<td>Confirm your malpractice insurance covers behavioral tele-health</td>
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Santhiveeran (2009) reviewed the compliance of social workers’ online therapy websites according to the *NASW Code of Ethics* standards and found that:

- Less than half of the sites studied (44%) provided information to clients about how to safeguard their privacy while engaging in the online mental health services;

- Barely half (49%) provided statements about the duty to maintain confidentiality;

- Only one-third (32%) included specific emergency protocols (beyond a bare reference to 911)
LIMITED UPTAKE OF TECHNOLOGY FOR SUBSTANCE USE DISORDER TREATMENT

- Computerized screening and assessments (70%/45%)
- Telephone-based therapy (49%/28%)
- Video-based therapy (55%/20%)
- Texting for appointment reminders (69%/13%)
- Mobile treatment apps (41%/5%)
- Mobile recovery apps (56%/9%)
- Virtual world therapy (35%/<1%)

Molfenter et al. 2018
Clinicians who are Champions of tele-behavioral health can serve as strong advocates for expanding tele-behavioral health services by:

- convincing other staff members of the value and utility of the delivering services virtually
- bringing legitimacy and credibility to the use of tele-behavioral health
- using their relationships with other clinicians to promote adoption leading to implementation

Wade, Elliott, & Hiller, 2014
RAPID VIRTUALIZATION OF BEHAVIORAL HEALTH SERVICES
COVID-19

Is rushing into tele-behavioral health ethical?

or

Is denying services unethical?
OFFICE FOR CIVIL RIGHTS (HIPAA) ENFORCEMENT DISCRETION DURING A PUBLIC HEALTH EMERGENCY

• Waived potential penalties for violations arising out of good faith use of telehealth

• Office of Civil Rights allows practitioners to use non-public facing remote communication products

• Non-public facing remote communication products would include:
  - Apple FaceTime
  - Facebook Messenger video chat
  - Google Hangouts Video
  - Whatsapp video chat
  - Zoom
  - Skype

• Do not use public-facing platforms

• Remote communication products are open to the public and allow wide or indiscriminate use.

Examples include:
  - Tik Tok
  - Facebook Live
  - Twitch
  - Slack
Prior to the Public Health Emergency (PHE), psychologists performed 7.07% of their clinical work virtually.

Tele-behavioral health increased 12-fold to 85.53% with 67.32% of psychologists conducting all their clinical work using tele-behavioral health.

Psychologists projected that they would perform 34.96% of their clinical work via tele-behavioral health after the pandemic.

Pierce, et al., 2020 In Press; Pierce, Perrin, & McDonald, 2020
FOR SOME PATIENTS, SERVICES DELIVERED VIA TELE-BEHAVIORAL HEALTH PROVIDE

• Feelings of safety and control (those with trauma- or anxiety-related diagnoses)

• While for others the sense of emotional or virtual distance experienced with tele-behavioral health can at times be off-putting

Shore, 2020
<table>
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<tr>
<th>Concerns about:</th>
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<tr>
<td>1. using new software and technologies</td>
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<td>2. confidentiality &amp; privacy/security issues</td>
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<tr>
<td>3. questions about tele-behavioral health efficacy</td>
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<td>4. regulatory concerns (e.g., uncertainty about laws governing tele-health or roadblocks)</td>
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McClellan et al., 2020; Jang-Jaccard et al., 2014; Scott Kruse, et al., 2018
Tele-behavioral health does change how a clinician provides services, with most of burden being on the clinician rather than the patient.

Connolly et al., 2020
OPERATION PAR POST COVID

- Within a matter of 2 weeks, all programs moved to various levels of tele-behavioral health

- Counselors and Case Managers began working from home-new process and new safety procedures
COVID-19 CHANGES

• Protocols
• Policies
• Expanded billing
• Lifted restriction on patient location
• Included Federally Qualified Health Centers (FQHCs)
• Use of telephone
• Changed billing codes/modifies
____________________________has demonstrated at-home equipment is able to run Zoom meetings and the space in the home is adequate for delivering treatment services. Therefore, the provision of tele-health services for PAR clients from the employee’s home is approved.

*Youtube video instructions
*Tele behavioral Health Training – minimum 2 hours
POST COVID

- We needed to develop virtual groups-new safety checklist
- How would we conduct drug screens?
- Social distancing in the residential programs led to 10 or less in a room and the rest of the group participating via telehealth
- All visitation via video conferencing
- Needed more tablets
ESTABLISHING A SCREEN SIDE MANNER

Do

- Look directly into the camera rather than looking at the picture of the person on the screen (pseudo-eye contact)
- Balance facilitative and directive language (e.g., What are your thoughts about next steps you might take?; It sounds like you have a lot of background noise going on. Can you move to a different spot for our session?)
- Wear solid colors and dress as if you are going to work in the clinic/office
- Nod your head and lean forward; make sure your face takes up 2/3 of the screen
- Act slightly more animated
- Stay seated (don’t pace) and sit-up straight
- Adjust camera so your entire face is visible and facing forward
Avoid

- Fidgeting, tapping, doodling, etc. (any kind of distracting behavior)
- Eating or drinking during sessions (if you need to take a sip of water, turn your head away from the camera)
- Video-camera shaming (demanding that a patient/client turn on their camera)
- Making exaggerated motions with hands
ZOOM CHAT ROOMS

ABLE TO REACH OUT FOR ASSISTANCE IN REAL TIME

SUPERVISOR CAN JOIN SESSION IF NEEDED

PROGRAM SPECIFIC CHAT ROOMS-MAINTAINING CONNECTIONS
SETTING UP OFFICE SPACE

- Remove all distractions (you don’t want patients/clients focused on trying to figure out what is on your bookshelf)
- Ensure there is good lighting (no shadowed face or halo effect)
- Provide a private and clean looking space
- Aim for a neutral backdrop like a plain wall or bookshelf
- Don’t sit with a window behind you that can cast shadows
- Ensure good placement of camera, microphone, and speakers
- Remove any Alexa-type devices
- Put a Do Not Disturb sign on the door
SERVING AS A ROLE MODEL

- Turn off phone and email (avoid distractions)
- Use a virtual waiting room but be on time
- Being online can cause people to act more casually (called disinhibition effect)
- Avoid self-disclosures or chatting (follow the 90/10 rule: listen, reflect, support, identify discrepancies, roll with resistance 90% of the time; self-disclose/chat 10% of the time at the beginning/end of the session)
- Maintain boundaries (remember this is a counseling session, not a casual virtual meeting with friends)
Because the client is not within the walls of an office – client could increase verbalization of negativity or be more easily distracted, etc.
EXPECT THE UNEXPECTED

(Unsplash.com retrieved 10-27-20)
**BEFORE STARTING A SESSION**

1. Ensure you are in a private area. No family members or others around.
   - a) Ensure family and/or others understand the importance of no interruptions during your session
   - b) Ensure your family and/or others are not able to hear or see your computer

2. Place a sign on your door stating, “Do not disturb in a Zoom Session”.

3. Silence your phone and turn off e-mail

4. If you are going to share your screen or share from the EHR, open and make sure only your client’s information is visible (minimize on screen)

5. Log onto Virtual Desktop (Follow Instructions sent by Rich-HR). This allows you to access your e-mail, Avatar, shared drive etc.

6. Prior to beginning sessions be sure to have your Zoom home page open and access Clinical Supervisor Channel while conducting sessions (Instructions on PARnet-youtube video by Jim). **Leave Zoom home page open at all times (on the clock) while working from home.**

7. Open your Zoom meeting from your home computer (not virtual desktop).
7. You will be able to share your virtual desktop screen with Avatar. *Reminder be sure to have open only your client (not Avatar home screen or open tabs of other clients on the top) prior to sharing your screen.*

8. Make sure you can see a clock.

9. Adjust your camera to a position which is appealing.
   a. Make sure lighting is good.
   b. Test your microphone and sound.

10. This next step of connecting with the client has 2 options.
    
    **Option 1.** Log onto the Zoom. a. Click onto Start with Video (upper right corner – orange).
    Invite the client to the session
    a. Hover at the bottom of the screen and click on “INVITE”.
    b. Choose to invite by default email or by providing the client the 9-digit meeting number located at the top of the main screen.
    
    **Option 2. This process should be consistent throughout your program.**
    a. All clients at your program will be given a list of all staff meeting ID numbers. (These will be static Zoom numbers assigned to each individual staff member).
    e. Client will log in and be in the waiting room. The staff will bring client out of the waiting room to begin the session.
CONDUCTING THE SESSION

1. Where are you today? (address/location) If we should get disconnected, what number should I use to reach you? Emergency contact #?

2. Prior to discussing any information please inform the client the following “Please be advised that the information we will discuss is sensitive and confidential.

3. Is anyone else there with you?
   a) If no, begin session.
   b) If yes, who is there with you today?

4. Do you want to continue the session with ________ there with you?
   a) If no, end session.
   b) If yes can we identify a safe word or safe gesture you can say or gesture to me that means to end the conversation?
### Ending the Session

1. If the session is complete, hover at the bottom of the screen and click on “END MEETING” (lower right of the screen in red).

2. New box appears a. Click on “END MEETING FOR ALL” (lower left in blue).

3. Last box appears a. Click on down arrow next to name and click “EXIT”.

4. Take off and unplug headset.

5. Remove “Do not disturb” sign from your door.

6. Let others in your home know you are off Zoom.
SESSION-CHECK SHEET

- Orientation
- Technology check
- Phone number
- Location
- In Case of Emergency-ICE
- Youtube instructions
RESIDENTIAL GROUPS

- 2 facilitators-One may be working from home
- Large rooms projector and microphone-set up

COVID money for resources
ZOOM GROUP
COUNSELING AGREEMENTS

Operation PAR Outpatient group members created these agreements so recovery can happen in a safe space.

I agree to follow these agreements, so group therapy is a safe and confidential place for growth and healing:

- Confidentiality is everyone’s responsibility - If a group member states the safe word, we all pause.
- Group starts on time
- Stand up if you are sleepy
- Keep group safe: emotionally – physically – behaviorally
- One person speaks at a time
Zoom Group Counseling Agreements Continued

- Respect other people’s feelings when giving feedback
- Use “I” statements when speaking
- Come to group sober
- Please do not move around the house or go to the bathroom with your device.
- Please keep your device muted unless you are speaking
- Silence cell phones/Smart Devices
- Everyone participates in group
- Follow Operation PAR dress code (Dress as you would if you were being seen in-office)

- Group Safe word is ____________.
GROUPS

Call ahead (day ahead or day of) safety check with client:

• Where will you be when you attend group? (address/location) If we should get disconnected during group, what number can we use to reach you? Emergency Contact?
• Is anyone else going to be there with you during group session?
• Are you able to be in a private space?
• If someone was to come into your space, we will use the safe word________. If a group member states the safe word, we all pause.
A recent study found that patients participating in an online group reported feeling less connected than group members participating in in-person sessions.

But most of these online group members believed:

- the convenience of attending group online offset any barriers or difficulties experienced
- they probably wouldn’t have been able to attend group sessions if they did not attend the online sessions
- while an online group was not their first choice, it was preferred over no treatment

Lopez et al., 2020
LESSONS LEARNED

- Medical Advanced Pain Specialist clinics have used far more phone sessions than video-data collection from all programs.
- Outpatient services had a 33% no show rate Jan-Feb and a 15% no show rate March-May.
- Zoom channels for on-going virtual communication and safety.
- Survey to staff regarding working from home and the use of tele-health we are in a new virtual world.

Lopez et al., 2020
PROVIDERS ARE ALSO AWAITING HOW THE POST-PANDEMIC REGULATORY AND POLICY LANDSCAPE SHAKES OUT

- What emergency measures will expire, and what actions will state, and federal regulators take to make sure that tele-health continues to advance and expand?
- Will Centers for Medicare and Medicaid Services continue to support Remote Patient Monitoring programs by allowing the patient’s home to serve as a tele-health site?
- Will privacy and security guidelines – most notably HIPAA – be revised to allow providers and patients to connect on more platforms, including the audio-only phone?
  - As of July 23, 2020 all 50 state Medicaid agencies and Washington D.C. have issued guidance to allow for a form of audio-only tele-health services
- Will reliable broadband become a reality?

THOUGHTS FROM A VIDEOCONFERENCING EXPERT

- The longer the pandemic and associated quarantines continue the more likely current changes become solidified and routinized into the practice of behavioral health.
- What if the pandemic is controlled? Will current regulatory and structural changes stay in place or revert back?
- What if the pandemic becomes episodic, resulting in a series of sporadic and regional quarantines? Will the regulatory/structural changes be state or region specific?
- What will the lessons of the COVID-19 pandemic be?
- What services should be done in-person or through telehealth or other technologies?  
  
*Shore et al., 2020*
TELE-BEHAVIORAL HEALTH:

Is equivalent to in-person care:

- Research base on mental health services is extensive
- Research base for SUD treatment is growing-OUD treatment
- Patients express satisfaction with it – they like it
- National Guidelines exist
- Clinicians may be initially reluctant
- Clinician training & practice may reduce reluctance
- Tele-health tips can inform practice
- Platforms should provide end-to-end encryption
- Resources for training/technical assistance and products are available
- Status of tele-behavioral health post-pandemic is undecided
RESOURCES

Center of Excellence for Private Health Information
https://coephi.org/sites/default/files/tips-individuals.pdf
https://www.coephi.org/sites/default/files/provider_telehealth_and_privacy.pdf

SAMHSA TIP 60 Using Technology Based Therapeutic Tools in Behavioral Health Services

American Telemedicine Association-Evidence-Based Practice for Telemental Health
http://thesource.americantelemed.org/resources/telemedicine-practice-guidelines

American Psychological Association-Guidelines for the Practice of Telepsychology
RESOURCES

Tele health Resource Center
https://www.telehealthresourcecenter.org/resources/

U.S. Department of Health & Human Services
https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html

SAMHSA Substance Abuse Confidentiality Regulations
https://www.samhsa.gov/about-us/who-we-are/laws-regulations/confidentiality-regulations-faqs

ASAM Confidentiality (42 CFR Part 2)
https://www.asam.org/advocacy/advocacy-principles/standardize-it/confidentiality-(42-cfr-part-2)-new

Lopez, A., Rothberg, B., Reaser, E., Schwenk, S., & Griffin, R. (2020). Therapeutic groups via video teleconferencing and the impact on group cohesion. mHealth, 6(13).


*Note: All images used are from Unsplash.com (free stock images) or Clip Art
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