

Tips for Understanding The NJ Telemedicine/Telehealth Law: Implications for the Practice of Social Work

This information is based on P.L.2017, c.117 C.45:1-61. For more information, please review the full text of the law at <http://www.njleg.state.nj.us/2016/Bills/PL17/117 .HTM>

This information was summarized following a discussion at a meeting of the Board of Social Work Examiners, and will be updated after the Board publishes Rules related to this issue.

AN ACT authorizing the provision of health care services through telemedicine and telehealth was approved by the Senate and General Assembly of the State of New Jersey, and took effect on July 21, 2017.

Here are a few highlights to guide Social Workers in their practice under this new law.

- ***“Telemedicine” means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means...***
 - Social workers, who are included in the definition of “health care providers” in this law, may provide social work and/or clinical social work services (as defined in the NJ Social Work Regulations N.J.A.C. 13:44G, subchapter 1.2 – Definitions) through technological means.
 - The social worker must be in compliance with all aspects of the Regulations including required licensure and supervision.

- ***“Telehealth” means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services...***
 - Social workers may use information and communications technologies to support their professional work with clients

- ***A health care provider who engages in telemedicine or telehealth, shall maintain a complete record of the patient’s care, and shall comply with all applicable State and federal statutes and regulations for recordkeeping, confidentiality, and disclosure of the patient’s medical record.***
 - All telemedicine and telehealth services must be provided using HIPAA-compliant systems.
 - Social workers must keep records of all services provided through telemedicine and telehealth as if the provider and the client were meeting in person.

- ***Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care.***
 - When providing services through telemedicine or telehealth, these services must meet the same standard of care as if the provider and the client were meeting in person.

- If this equivalent standard of care cannot be met through technological means, then the client must be seen in person by the provider or referred elsewhere for in person services.
- ***Telemedicine services shall be provided using interactive, real-time, two-way communication technologies.***
- ***“Telemedicine” does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.***
 - This law does not consider the use of phone calls/email/messaging/text/fax to be “telemedicine.” Telemedicine can only be provided through interactive, real-time, two way communication technologies such as video-conferencing. These communication methods are legal. However, they should only be considered as an adjunct to in-person or telemedicine services, and might not be reimbursed by insurance companies.
 - In addition, the Board of Social Work Examiners (BSWE) strongly advises against the use of email/messaging/text/fax for any communication other than limited information regarding scheduling of appointments.
- ***...the State boards... shall each adopt rules and regulations that are applicable to the health care providers under their respective jurisdictions, as may be necessary to implement the provisions of this section and facilitate the provision of telemedicine and telehealth services.***
 - The BSWE is working with other Mental Health Boards in NJ to develop rules/regulations governing implementation of this law for social workers and other mental health professionals.
- **The issue of providing inter-state services (i.e. to someone who is not in NJ) is not addressed by this law. However, the rules for this remain the same for services provided in-person or technologically.**
 - Each state has jurisdiction over services provided to people who live in or are currently in their state.
 - If you want to provide services to someone in another state (regardless of how long they will be there or for what purpose), jurisdiction resides with that state.
 - Please contact governmental entity which licenses social workers in that state and ask whether you can provide mental health services with a NJ license.

If you have additional questions about the NJ Telemedicine/Telehealth Law,
and you are an NASW member, please contact us at
<http://www.naswnj.org/default.asp?page=LicenseCEConsult>.