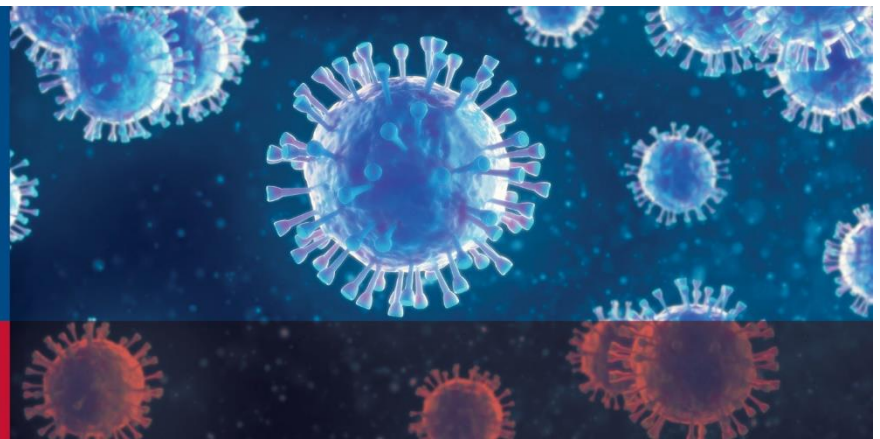




American Professional Agency



RISK MANAGEMENT



April 2020

Frequently Asked Questions about Coronavirus (COVID-19) and Telehealth

As healthcare providers continue to move toward providing telehealth services to their patients and clients during the COVID-19 crisis, federal, state and local governments continue to provide State of Emergency protocols and waivers. We are dedicated to continuing to provide information to assist in providing care from a remote location. This document contains best practices as of April 1, 2020. The resources cited are fluid and the links will update frequently.

Communication via Mass E-mails

As providers are sending out information quickly to patients/clients, it is easy to make a mistake and inadvertently breach HIPAA. **Take a breath and pause before you hit send.** When sending out mass emails about the Coronavirus or other information, recheck the email to make sure all recipients are listed in the blind carbon copy (bcc) portion of the email, not the “To” field to avoid sharing the names and email addresses of all patients/clients with each other. This will afford privacy protection under HIPAA.

If I need to report a potential HIPAA violation or other potential claim, who do I contact?

You should report all potential claims to American Professional Agency, Inc. by fax or email. Fax: (631) 598-7249. Email: jhoffman@americanprofessional.com or bbrady@americanprofessional.com. Please include policyholder name, policy number, date of occurrence, brief sentence explaining the situation, policyholder contact information, patient/client initials and patient/client treatment date range.

Do I have coverage for providing telehealth/telepsychiatry services?

Telehealth is included in the American Professional Agency, Inc. coverage as allowable within the insured’s professional license or registration to practice medicine. Please refer to your policy. There is no need to contact American Professional Agency, Inc. for verification of telehealth coverage.

Do I have coverage for volunteer work related to the COVID-19 pandemic? If so, do I count those hours for professional insurance purposes?

Yes, a behavioral health policyholder in any of the American Professional Agency, Inc.’s insurance programs who volunteers their behavioral health professional services during the COVID-19 pandemic has coverage provided they hold a license in that state or licensure is waived for that state during the crisis. A policyholder volunteering their services during this crisis does not need to count those hours in their total practice hours.

If I am called to provide services (volunteer or otherwise) at a local hospital, clinic, state- or privately-run facility/triage for the purpose of providing general medical care, not directly or tangentially related to Psychiatry, am I covered under my Psychiatrist's Professional Liability policy?

No. Your Psychiatrist's Professional Liability policy covers you for the rendering of professional services related to the practice of Psychiatry and treatment for mental health disorders. This policy is intended to cover you for general medical care to your Psychiatry patients, but not general medicine patients. Any work as a general medical provider not related to mental health practice, whether as a volunteer or a paid physician, should be insured through the organization requesting or benefitting from your services. Please check with that organization's legal or insurance department to ensure that you are covered for such services.

Can I prescribe medications for a patient I am seeing via telehealth without violating the Ryan Haight Act during the COVID-19 pandemic?

Yes. Although the Ryan Haight Act requires a provider to conduct an initial, in-person exam for a patient before electronically prescribing a controlled substance, as of March 17, 2020, the DEA has indicated that this requirement has been suspended.

<https://www.deadiversion.usdoj.gov/coronavirus.html>

<https://www.psychiatry.org/psychiatrists/covid-19-coronavirus/practice-guidance-for-covid-19>

Can I use audio only (telephone) telecommunications devices to conduct telehealth and can I only see existing patients/clients?

Yes. The Center for Connected Health Policy, The National Telehealth Policy Resource Center, published their summary of key aspects of HR 748 recently signed into law. Telehealth services can be provided regardless of where a Medicare recipient is living, removing the requirement that they live in rural or underserved locations. Eligible providers include psychiatrists, clinical psychologists, social workers, nurse practitioners and physician assistants. HR 748 also allows for the flexibility to use audio only telecommunications during the COVID-19 pandemic. Services can be provided via telehealth to both new and established patients/clients. The link below provides additional details related to telehealth services provided during COVID-19. Please note that HR 748 addresses Medicare recipients. We recommend consulting individual private health insurers and refer to state laws to determine if the HR 748 provisions apply for private health insurance patients/clients and allowed in your state.

<https://www.cchpca.org/resources/covid-19-telehealth-coverage-policies>

Does a healthcare provider have an obligation to notify their patients/clients they may have been exposed to the COVID-19 virus by another patient/client who tested positive for the virus?

If a patient/client contacts you that they have or highly suspect they have the COVID-19 virus, it is recommended you contact your patients/clients who may have come in contact with that individual. It is recommended you provide information to those patients/clients that one of your patients/clients has tested positive or highly suspects they may have the COVID-19 virus and were at the office on the same day without providing names, appointment times, etc., that may make it possible to identify that individual, in order to maintain privacy compliance under HIPAA.

Does a healthcare provider have an obligation to notify their patients/clients if they have or suspect they have the COVID-19 virus?

Although HIPAA protects the privacy of your patients/clients, you are free to disclose your own medical condition. Ethically and for the safety of both your patients/clients and the general public, it is

recommended you contact all of your patients/clients that you were in contact with that may have been exposed to the virus.

Are there resources and guidance available from the American Psychiatric Association or the American Psychological Association?

Yes. The American Psychiatric Association (https://www.psychiatry.org/psychiatrists/covid-19-coronavirus?utm_source=Internal-Link&utm_medium=FOS-Hero&utm_campaign=CV19) and the American Psychological Association (<https://www.apa.org/practice/programs/dmhi/research-information/pandemics>) have set up a list of resources and frequently asked questions related to the COVID-19 pandemic on their respective websites.

Should I be extra concerned with cybersecurity issues during the COVID-19 pandemic?

There have been reports of an increase in sophisticated hackers conducting malicious activity. This includes hacking into routers, planting malware, impersonating health officials and sending emails with links entitled COVID-19 Information, COVID-19 Emergency Information, etc., from what looks like legitimate organizations such as the CDC, WHO, etc. Before opening an email or clicking on a link, confirm the email is legitimate. If you know the sender, contact them to confirm they sent the email prior to clicking on embedded links in the email. Also, check for misspellings, poor grammar and other indications that the email may be fake. Check the email address in the “To” field (to verify that it was sent to you or a generic group such as “unlisted-recipients”). Check the “From” field to see if the sender’s name coincides with the email address next to it in parentheses. The sender’s name may be known to you, but their email address beside it may be incorrect and set up to send response information to the hacker.

Resources

Office for Civil Rights, U.S. Department of Health and Human Services. Emergency Situations: Preparedness, Planning, and Response. COVID-19 and HIPAA.

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/index.html>

Office for Civil Rights, U.S. Department of Health and Human Services – Notification of Enforcement Discretion for Telehealth Remote Communications During COVID-19 Nationwide Public Health Emergency.

<https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

March 28, 2020 Office for Civil Rights, U.S. Department of Health and Human Services BULLETIN: Civil Rights, HIPAA, and the Coronavirus Disease 2019 (COVID-19)

<https://www.hhs.gov/sites/default/files/ocr-bulletin-3-28-20.pdf>

March 2020 Office for Civil Rights, U.S. Department of Health and Human Services BULLETIN: HIPAA Privacy and Novel Coronavirus.

<https://www.hhs.gov/sites/default/files/hipaa-and-covid-19-limited-hipaa-waiver-bulletin-508.pdf>

February 2020 Office for Civil Rights, U.S. Department of Health and Human Services BULLETIN: HIPAA Privacy and Novel Coronavirus.

<https://www.hhs.gov/sites/default/files/february-2020-hipaa-and-novel-coronavirus.pdf>

Federation of State Medical Boards. States Waiving Licensure Requirements/Renewals in Response to COVID-19 for updates:

<https://www.fsmb.org/advocacy/covid-19>

Interstate Medical License Compact (for physicians)

<https://imlcc.org/>

PSYPACT – Psychological Interjurisdictional Compact (for psychologists)

<https://www.asppb.net/page/psypact> and <https://psypact.org/>

CDC Interim U.S. Guidance for Risk Assessment and Public Health Management of Healthcare Personnel with Potential Exposure in a Healthcare Setting to Patients with Coronavirus Disease (COVID-19)

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html>

CDC Healthcare Professionals: Frequently Asked Questions

<https://www.cdc.gov/coronavirus/2019-ncov/hcp/faq.html>

For risk management related questions, please contact AWAC Services Risk Management at riskmanagement@awacservices.com or call (855) 218-8161 (psychiatrists) or (855) 598-8657 (psychologists and Texas policyholders). For underwriting and coverage related questions, please call American Professional Agency, Inc. at (800) 421-6694.

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