

Title 16. Board of Psychology

PROPOSED LANGUAGE

Proposed new language is underlined

Changes to the originally proposed language are shown with double underline for new text and double strikeout for the deleted text.

Add Section 1396.8 of Article 8 of Division 13.1 of Title 16 of the California Code of Regulations to read:

§1396.8. Standards of Practice for Telehealth Services

(a) A licensee is permitted to provide psychological health care services via telehealth to a client at an originating site in this State, as defined in section 2290.5 of the Code, as well as to a client who is a resident of California who is temporarily located outside of this State, subject to the laws and regulations of the other state jurisdiction where either the licensee and/or the client is located, including, but not limited to, the following circumstances:

- (1) To a client at an originating site in this State, as defined in section 2290.5 of the Code, when a licensee is located at a distant site within this state. Resident means any individual who is or has been present in California for other than a temporary or transitory purpose, or who is domiciled in California.
- (2) To a client who has received services in California, and who is temporarily located outside of this State. Domicile means the place where an individual voluntarily establishes themselves and their family, not merely for a special or limited purpose, but with a present intention of making it their true, fixed, permanent home and principal establishment.
- (3) To a client who is located in this State when a licensee is temporarily located outside of this State.

(b) As used in this section, a licensee shall include a licensee, registrant, psychology trainee, or other supervised individual permitted to provide psychological services under the Psychology Licensing Law, beginning with section 2900 of the Code.

(c) The provision of psychological health care services under subdivision (a) are subject to the following conditions:

- (1) The licensee holds a valid and current license issued by the Board or is otherwise allowed to practice under this section.

- (2) The licensee obtains and documents informed consent for the provision of psychological health care services via telehealth from the client. Such consent shall cover concerns unique to the receipt of psychological health care services via telehealth, including risks to confidentiality and security, data storage policies and procedures specific to telehealth, the possibility of disruption and/or interruption of service due to technological failure, insurance coverage considerations, and other issues that the licensee can reasonably anticipate regarding the non-comparability between psychological health care services delivered in person and those delivered via telehealth.
- (3) The licensee determines that delivery of psychological health care services via telehealth is appropriate after considering at least the following factors:
- (A) The client's diagnosis, symptoms, and medical/psychological history;
 - (B) The client's preference for receiving psychological health care services via telehealth;
 - (C) The nature of the psychological health care services to be provided, including anticipated benefits, risks, and constraints resulting from their delivery via telehealth;
 - (D) The benefits, risks, or constraints posed by the client's physical location. These include the availability of appropriate physical space for the receipt of psychological health care services via telehealth, accessibility of local emergency psychological health care services, and other considerations related to the client's diagnosis, symptoms, or condition.
 - (E) The provision of telehealth services is within the scope of competency of a psychology trainee, or other supervised individuals as specified in (b) above, who provides psychological health care services under the supervision of the licensee.
- (4) The licensee is competent to deliver such services based upon whether ~~he or she~~ the licensee possesses the appropriate knowledge, skills, and abilities relating to delivery of psychological health care services via telehealth, the information technology chosen for the delivery of telehealth services, and how such services might differ from those delivered in person.
- (5) The licensee takes reasonable steps to ensure that electronic data is transmitted securely, and informs the client immediately of any known data breach or unauthorized dissemination of data.
- (6) The licensee complies with all other provisions of the Psychology Licensing Law and its attendant regulations, and all other applicable provisions of law and standards of care in this state and the other ~~state~~ jurisdiction, if any, where either the licensee or the client is located.

~~(c) Failure to comply with these regulations or the laws and regulations relating to telehealth of the other state, if any, where either the licensee or the client is located constitutes unprofessional conduct.~~

Authority: 2930 Business and Professions Code

Reference: Business and Profession Code sections 686, 2290.5, 2904.5, 2960, 2960.6