

# **Telehealth: Law & Ethics, Technology, and Best Practices for Connecting with Your Clients**

**Lisa Wenninger, BC-TMH**

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Tech consulting available with Lisa Wenninger: [info@primarysuccesscorp.com](mailto:info@primarysuccesscorp.com)

## **BBS FAQ on Providing Telehealth**

[https://bbs.ca.gov/pdf/publications/telehealth\\_faq.pdf](https://bbs.ca.gov/pdf/publications/telehealth_faq.pdf)

## **BBS FAQ on CE Requirement for Telehealth Training**

[https://bbs.ca.gov/pdf/ab\\_1759\\_faq\\_telehealth.pdf](https://bbs.ca.gov/pdf/ab_1759_faq_telehealth.pdf)

## **CAMFT Code of Ethics on Telehealth**

<https://www.camft.org/Membership/About-Us/Association-Documents/Code-of-Ethics###telehealth>

## **CAMFT training: License Portability Considerations**

All CAMFT members can watch for free (and earn 1.0 CE)

<https://ondemand.camft.org/courses/51471>

## **AAMFT Best Practices for Online Therapy**

Available for download for free

<https://www.aamft.org/store/detail.aspx?id=DLBPITOPOCAFT>

## **Telehealth Guide from HHS**

<https://telehealth.hhs.gov/providers/best-practice-guides/telehealth-for-behavioral-health>

## **American Psychiatric Association: Patient Safety and Emergency Management How to assess for risk in a telehealth session**

<https://www.psychiatry.org/psychiatrists/practice/telepsychiatry/toolkit/patient-safety-and-emergency-management>

## **HIPAA & Telehealth**

[FAQs on Telehealth and HIPAA](#)

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

# Telehealth Practice Review Worksheet

Today's Date: \_\_\_\_\_

Clinician Name: \_\_\_\_\_

1. What are the technology products and services that you are using to deliver telehealth?

Videoconferencing \_\_\_\_\_

☐ Signed BAA on file

Telephone/Voicemail \_\_\_\_\_

☐ Signed BAA on file

SMS/Text \_\_\_\_\_

☐ Signed BAA on file

Email \_\_\_\_\_

☐ Signed BAA on file

Notes/Records \_\_\_\_\_

☐ Signed BAA on file

Payments \_\_\_\_\_

☐ Signed BAA on file

Other \_\_\_\_\_

☐ Signed BAA on file

2. What states are your clients located in at time of provision of services?

State

License Requirement

Method License Requirement Is Met

3. Do you have emergency contacts on file for each client?

☐ Yes ☐ No

4. Do you have numbers for crisis/emergency services local to each client on file?

☐ Yes ☐ No

5. Have you verified local crisis/emergency service numbers for each client within the last six months?

☐ Yes ☐ No

6. Do you have a way to make phone calls to emergency contacts or crisis services while the client remains connected to the telehealth session?

☐ Yes ☐ No

7. Are you the only person who uses the computer that you use for telehealth sessions?

☐ Yes ☐ No

8. Have you disabled microphones/listening on all voice-activated "smart" devices such as Alexa?

☐ Yes ☐ No

*Any "no" answers above represent security risk and/or risk to the client,  
and may be violations of state or federal law.*



# ARE YOU IN CALIFORNIA AND CONSIDERING RECEIVING MENTAL HEALTH SERVICES VIA TELEHEALTH?

**Providers that offer mental health services via telehealth in California must hold one of the following California licenses or associate registrations through the Board of Behavioral Sciences:**

Associate Marriage and Family Therapist (AMFT), Associate Social Worker (ASW), Associate Professional Clinical Counselor (APCC), Licensed Marriage and Family Therapist (LMFT), Licensed Clinical Social Worker (LCSW), Licensed Professional Clinical Counselor (LPCC), or Licensed Educational Psychologist (LEP).

## **DURING YOUR FIRST SESSION, YOUR THERAPIST:**

- Must provide you with their license or registration number.
- Must obtain your verbal or written consent to use telehealth when providing you services.
- Must inform you of the potential risks and limitations of receiving treatment via telehealth.
- Must ensure that they have contact information of relevant resources, including emergency services, in your geographic area.

## **DURING ANY ADDITIONAL SESSIONS WITH YOUR THERAPIST, YOUR THERAPIST:**

- Must verify your full name and the address of your present location.
- Must consider whether the session is appropriate for telehealth.
- Must use industry best practices for telehealth to ensure your confidentiality, security of the communication medium, and your safety at all times.

You can verify if your therapist is a California licensee or registrant through our online license look up at [www.breeze.ca.gov](http://www.breeze.ca.gov).

If you have concerns about the services that you have received, or believe that your therapist has engaged in unprofessional conduct related to their professional responsibility, you may submit a complaint to the Board at: [www.breeze.ca.gov](http://www.breeze.ca.gov).



## **OTHER RESOURCES TO ASSIST YOU ON YOUR TELEHEALTH JOURNEY:**

Self Empowerment: How to Choose a Mental Health Professional (Board of Behavioral Sciences)

Telehealth Guide for Patients (U.S. Department of Health and Human Services)

Telehealth and Behavioral Health (U.S. Department of Health and Human Services)

8 Things to Know Before Your First Telehealth Visit (California Telehealth Resource Center)

Virtual Care Security Tips for Patients (California Telehealth Resource Center)





You must have a current and active California license to provide marriage and family therapy, educational psychology, clinical social work, and professional clinical counseling services to clients located in California.

**WHEN INITIATING TELEHEALTH SERVICES WITH A CLIENT IN CALIFORNIA, YOU MUST:**

- Obtain and document verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering services.
- Inform the client of the potential risks and limitations of receiving treatment via telehealth.
- Provide the client with your license or registration number.

- Document your efforts to ascertain the contact information of relevant resources, including emergency services, in the patient's geographic area.

**DURING ANY ADDITIONAL SESSION WITH A CLIENT IN CALIFORNIA, YOU MUST:**

- Verbally obtain and document the client's full name and address of present location at the beginning of each telehealth session.
- Assess whether the client and the session are appropriate for telehealth, including, but not limited to, consideration of the client's psychosocial situation.
- Utilize industry best practices for telehealth to ensure both client confidentiality, the security of the communication medium, and client safety.



**ADDITIONAL RESOURCES THAT MAY BE HELPFUL:**

American Association for Marriage and Family Therapy Online Therapy Guidelines  
American Counseling Association Code of Ethics (2014): Distance Counseling, Technology, and Social Media  
Association of Social Work Boards Technology and Social Work Regulations Resources  
California Association of Marriage and Family Therapists Code of Ethics  
National Association of Social Workers Code of Ethics  
Telehealth: Virtual Service Delivery Updated Recommendations (National Association of School Psychologists)  
Telehealth Resources for Health Care Providers (U.S. Department of Health and Human Services)  
Telehealth Best Practice Guides for Providers (U.S. Department of Health and Human Services)  
Guidelines for the Practice of Telepsychology (American Psychological Association)  
HIPAA & Telehealth: A Stepwise Guide to Compliance (National Consortium of Telehealth Resource Centers)  
HIPAA For Professionals (U.S. Department of Health and Human Services)







# PLANNING TO SUPERVISE VIA VIDEOCONFERENCING?

Proper supervision is an essential component to the development of future therapists and for consumer protection. While the legal requirements for supervision are similar for supervising in person or supervising via videoconferencing, extra considerations must be taken when deciding to supervise via videoconferencing.

The required individual, triadic, or group supervision must be provided via face-to-face contact. Face-to-face contact means in-person contact, contact via two-way, real-time videoconferencing, or some combination of these.

## **BEFORE BEGINNING SUPERVISION VIA VIDEOCONFERENCING, CONSIDER:**

Do I have the necessary security-compliant software and hardware to conduct supervision via videoconferencing?

Do I understand the different types of devices that can be used for supervision via videoconferencing, and have I assessed and understand the varying levels of risk?

Do I have the proper training for telehealth counseling and remote supervision?

Do I have the skills and ability to provide effective supervision via videoconferencing?

## **WHEN BEGINNING SUPERVISION THAT INCLUDES VIDEOCONFERENCING:**

You must assess the appropriateness of the supervisee to be supervised via videoconferencing. This must include, but is not limited to, the abilities of the supervisee, the preferences of both the supervisee and supervisor, and the privacy of the locations of the supervisee and supervisor while supervision is conducted.

As a best practice, consider conducting one or more initial in-person meetings between the supervisor and supervisee to jump-start the relationship-building process, develop the supervision agreement, and establish protocols for use of the technology.

Establish a protocol for how to handle serious and urgent crisis situations since you will not be physically present to walk the supervisee through these challenges.

Determine how you will maintain privacy during supervisory sessions. This should include how the supervisor and supervisee will conduct supervision in a confidential

space without interruptions as well as how case notes will be reviewed.

Discuss how loss of internet connections will be addressed during supervision.

## **MONITORING THE SUPERVISEE'S PROGRESS TOWARD GOALS:**

Consider incorporating at least one method to monitor the supervisee's performance, such as the supervisor reviewing video- or audio-recorded sessions of the supervisee working with a client, or on-site managers or other licensed clinicians performing ongoing documentation review and/or direct observation of the supervisee's performance. The supervisor should be aware of the quality of the supervisee's interpersonal interactions with clients.

Establish lines of communication with any other professionals who are managing the supervisee or monitoring their practice.

Continue to evaluate the effectiveness of supervising via videoconferencing for the supervisee. Focus not only on the content of sessions and interpersonal processes but also on the adequacy of technology used.

## **SECURITY AND CONFIDENTIALITY:**

Information about protected health information including the Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health Act should be provided to the supervisee.

Supervisors and supervisees need to monitor the location of the supervisory sessions and the auditory and visual privacy of the sessions.

Client-identifying information should be kept to a minimum, with initials or codes used to describe the client whenever possible.

When the need arises to discuss sensitive cases or when identifying information needs to be shared, the supervisor and supervisee should ideally arrange to meet in person.

Supervisors and supervisees will need to continuously monitor risks that result from technology to ensure ethically sound practice while using videoconferencing for supervision.



## RESOURCES TO ASSIST YOU IN YOUR ROLE AS A SUPERVISOR:

American Counseling Association Code of Ethics (2014): Distance Counseling, Technology, and Social Media

Association of Social Work Boards Technology and Social Work Regulations Resources

California Association of Marriage and Family Therapists Code of Ethics

National Association of Social Workers Code of Ethics

HIPAA & Telehealth: A Stepwise Guide to Compliance (National Consortium of Telehealth Resource Centers)

HIPAA For Professionals (U.S. Department of Health and Human Services)





Board of Behavioral Sciences



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

Gavin Newsom, Governor  
State of California  
Business, Consumer Services and Housing Agency  
Department of Consumer Affairs

## Telehealth Frequently Asked Questions

### **Q: What is telehealth?**

**A:** California law defines telehealth as a mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at the originating site and health care provider is at the distant site. – see [California Business and Professions Code § 2290.5](#)

### **Q: Can a licensee of the Board of Behavioral Sciences provide telehealth services to a client located in another state?**

**A:** It depends. Per [California Code of Regulations § 1815.5\(e\)](#), a licensee or registrant of this state may provide telehealth services to a client located in another jurisdiction **only** if the California licensee or registrant meets the requirements to lawfully provide services in that jurisdiction, and delivery of services via telehealth is allowed by that jurisdiction. It is the licensee's or registrant's responsibility to check with the other jurisdiction to determine if they can provide telehealth services in that state.

### **Q: Can a California licensee while out-of-state provide telehealth services to a client located in California?**

**A:** Yes. Assuming the case is appropriate for telehealth, the licensee can provide telehealth services if their license is current and active, and the licensee follows the regulations outlined in California Code of Regulations, Title 16, § 1815.5.

In addition, a California associate whose registration number is current and active can continue to practice with clients located in California while the associate is out-of-state **if** the supervisor permits it.

**Q: Are out-of-state licensed clinicians allowed to provide telehealth services to pre-existing clients who are moving to or visiting California?**

**A:** California regulations require an individual to have a current and active California license to provide marriage and family therapy, educational psychology, clinical social work, and professional clinical counseling services to clients located in California. However, out-of-state clinicians with a pre-existing client may seek to obtain a 30-day waiver from the California Emergency Medical Services Authority to temporarily continue to provide care to that client remotely via telehealth. [Pre-Existing MHP Authorization Form \(ca.gov\)](#)

**Q: Are there any guidelines for initiating telehealth services with a client?**

**A:** Yes. When initiating telehealth services, a licensee or registrant shall do the following:

- 1) Obtain informed consent from the client consistent with 2290.5 of the Code.
- 2) Inform the client of the potential risks and limitations of receiving treatment via telehealth.
- 3) Provide the client with his or her license or registration number and the type of license or registration.
- 4) Document reasonable efforts made to ascertain the contact information of relevant resources, including emergency services, in the patient's geographic area.

**Q: Is there anything that needs to be done each time I provide telehealth services to my client?**

**A:** Yes. Each time a licensee or registrant provides services via telehealth, they shall do the following:

- 1) Verbally obtain from the client and document the client's full name and address of present location, at the beginning of each telehealth session.
- 2) Assess whether the client is appropriate for telehealth, including, but not limited to, consideration of the client's psychosocial situation.
- 3) Utilize industry best practices for telehealth to ensure both client confidentiality and the security of the communication medium.