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# Telemental Health Services Guidance for Local Providers



**Office of  
Mental Health**

# Telemental Health Services Guidance for Local Providers

## Introduction

The use of telemental health provides increased access to mental health services and enhances services to adults, children and families. The NYS Office of Mental Health (OMH) has expanded Part 596 of Title 14 NYCRR to include the following regulatory changes: changing the title from “Telepsychiatry” to “Telemental Health”; expanding the eligible practitioner types to also include psychologists, social workers, mental health counselors, marriage and family therapists, creative arts therapists, and psychoanalysts; expanding the hub/distant site; expanding the spoke/originating site; and including ACT and PROS as eligible treatment settings. An OMH licensed program may function as a distant/hub site for another non-OMH program, as defined in Section 596.8. In such instances, the OMH licensed program must notify their local OMH Field Office of their intent to function as a distant/hub site.

“Telemental Health,” for the purpose of these regulations, is defined as the use of two-way real time-interactive audio and video equipment to provide and support mental health services at a distance. Such services do not include a telephone conversation, electronic mail message or facsimile transmission between a provider and a recipient, or a consultation between two professionals or clinical staff. The regulations prescribe that, when authorized by OMH, Telemental Health Services may be utilized for licensed or designated services provided by Telemental Health Practitioners from a site distant from the location of a recipient, where the recipient is physically located at a provider site licensed by the Office, or the recipient’s place of residence or other temporary location within or outside the state of New York.

The purpose of this document is to provide implementation guidance to New York State licensed or designated providers of services pursuant to Article 31 of the Mental Hygiene Law and approved to utilize telemental health via Part 596.

## Implications for the OMH Operating Certificate

“Telemental Health” is a practice available to OMH licensed or designated providers under the NYS Mental Hygiene Law (MHL). Licensed providers requesting to utilize this practice may submit an “Administrative Action” via the Mental Health Provider Data Exchange (MHPD). Outpatient clinics should choose a “change in optional services offered” and all other program types should choose a “change in additional services offered”. Providers unfamiliar with the MHPD should consult with their local NYSOMH Field Office Licensing unit for assistance (<https://www.omh.ny.gov/omhweb/aboutomh/fieldoffices.html>). Designated providers requesting to utilize this practice may submit a request via email to their regional Field Office.

## Attestation

A program applying to utilize telemental health must complete a “Telemental Health Services Standards Compliance Attestation” form (Appendix 1) and attach it to the Administrative Action request, or to the email request for designated providers, for approval by OMH. The attestation assures OMH that the provider’s plan for the use of telemental health conforms to the technological and clinical standards prescribed by 14 NYCRR Part 596 and has been developed by the guidelines set forth in this document. In addition, providers must also complete the “Technical

Guidelines Checklist for Local Providers” (Appendix 2) and attach it to the Administrative Action request, or to the email request for designated providers. Appendix 3 may be used as a reference to determine eligibility to utilize Telemental Health Services.

### ***Inspection***

As the final step in the approval process, though not required, OMH Field Office licensing staff may conduct a remote readiness review to either or both the originating and/or distant sites to review the use of Telemental Health Services as part of the routine certification process. This review may be achieved by having the Field Office licensing staff log on to the hub and/or spoke site’s telecommunication system to ascertain the quality of the transmission. Upon final approval the following program types will receive an amended operating certificate identifying the addition of telemental health: Clinic Treatment, CPEP, PHP, PROS, and Day Treatment. All other licensed and designated providers will receive a formal approval letter, and the designation of telemental health will be recorded appropriately.

### **Clinical Guidance**

While telemental health creates opportunities for increased access to Telemental Health Practitioners, legitimate concerns exist about privacy, security, recipient safety, and interoperability. To address potential obstacles and to improve the quality of care, national organizations have developed practice guidelines and practice parameters. OMH recommends that programs seeking approval to utilize Telemental Health Services review these guidelines and consider incorporation of relevant provisions in their plans, consistent with their target population. Two such national organizations are the American Telemedicine Association (<https://www.americantelemed.org/>) and the American Academy of Child and Adolescent Psychiatry (<https://www.aacap.org/>).

Prior to initiating Telemental Health Services, policies and procedures at both the provider site licensed or designated by the Office where the recipient is admitted, and the distant/hub site should be in place that address the topics listed below. Further explanation and details of any of these topics can be found in the above referenced guidelines and parameters.

### ***General Program Procedures***

- Scheduling (recipient, Telemental Health Practitioner, and room)
- Documentation and record keeping
- Role of support staff (making video connection, responding to emergency, etc.)
- Communication interruptions and contingency plans (see Technology and Telecommunications)

### ***Physical Environment***

- Location (privacy, proximity for escort or emergency situation)
- Room Setting
- Lighting/Backdrop

### ***Site and Check-in Procedures – Outpatient Services***

- Identifying, checking recipient in, escorting, setting up equipment and completing the video connection for each scheduled encounter
- Ensuring that staff may be contacted at any point during the encounter
- Addressing technical concerns that may arise

### ***Emergency Procedures***

- Process to engage with on-site staff should there be clinical or safety concerns

- Designation of an emergency contact at the provider site licensed or designated by the Office where the recipient is admitted
- Procedures in the event that emergency hospitalization becomes necessary (applies to outpatient programs only), including specifics for situations in which the recipient's place of residence may be considered the originating/spoke site
- Education and training related to emergency procedures and how to measure readiness/competency

### ***Recipient Enrollment for Telemental Health***

- Qualified mental health professional at the provider site licensed or designated by the Office where the recipient is admitted should assess the recipient's appropriateness for Telemental Health Services
- Process for assessment of appropriateness should include the following considerations:
  - Appropriateness based on clinical situation, including whether a recipient may be appropriate to receive Telemental Health Services from/to their place of residence or other temporary location
  - Recipient's awareness, familiarization with the process
  - Concerns regarding instability, suicidal ideation, violence, etc.
  - Symptoms that could worsen with telemental health (psychosis with ideas of reference, paranoid/delusions related to technology, etc.)
  - Medical issues
  - Cognitive/sensory concerns
  - Cultural and linguistic
  - Whether or not a recipient should be accompanied by a staff member during telemental health encounters
  - Services provided to recipients under age 18 (refer to the AACAP Practice Parameter)
- Steps to ensure that recipients have at least one in-person evaluation encounter prior to enrollment

### ***Informed Consent***

- Obtaining and documenting informed consent to utilize telemental health to deliver services
- Obtaining and documenting informed consent to record telemental health encounters, where appropriate
- Providing recipients with sufficient information and education about telemental health to assist them in making an informed choice
- The recipient must be aware of the potential risks and consequences as well as the likely benefits of telemental health, and must be given the option of not participating
- Recipients should be informed that care will not be withheld if the telemental health encounter were refused, although such care could depend on the availability of alternative resources
- Programs may develop a separate consent form for telemental health, or they may imbed the consent within their general consent form

### ***Documentation***

- The following should be considered for inclusion within the progress notes:
  - Location of the Telemental Health Practitioner
  - Location of the recipient
  - Whether or not a recipient is accompanied by a staff member during the telemental health encounter
  - If the encounter was disrupted due to equipment failure, and the plan for follow up

- The appropriate modifier (GT or 95) **MUST** be included to identify the encounter was performed via telemental health

### ***Collaborating with Recipient's Interdisciplinary Treatment Team***

- Ensuring that contact information for the recipient's primary clinical staff at the provider site licensed or designated by the Office where the recipient is admitted is provided to both the recipient and distant/hub site clinical staff to facilitate effective coordination of care
- Specifications regarding how collaboration will occur

### ***Care Between Telemental Health Encounters***

- A process description of how coordination of care will occur between encounters

### ***Prescriptions, Labs and Orders***

- Procedures detailing how the following will occur: prescriptions, renewals, prior authorizations, labs (ordering and obtaining results) as well as executing any telepsychiatrist orders

### ***Confidentiality and Privacy of Health Information***

- Confidentiality procedures should confirm and identify how relevant privacy and security regulations and policies will be followed (e.g., New York State Mental Hygiene Law Section 33.13, and HIPAA Privacy and Security regulations at 45 C.F.R. Parts 160 and 164, including HITECH breach notification procedures)
- All care provided by distant/hub site Telemental Health Providers must conform to policies and procedures of provider site licensed or designated by the Office where the recipient is admitted related to the provision of care, including (but not limited to) documentation of initial evaluation, diagnoses, treatment planning, ongoing documentation of encounters, discharge summaries, etc.
- All care provided using telemental health must have a process for timely, onsite documentation of care
- Distant/hub site Telemental Health Provider must have real-time access to recipient records
- Site appropriate for privacy

### ***Quality Review***

- Quality review should be conducted on a periodic basis to identify specific risks and quality failures. It is recommended that assessments should include:
  - Equipment and connectivity failures;
  - Number of attempted and completed encounters;
  - Recipient and provider satisfaction of the encounter;
  - Inpatient or provider complaints related to the encounter (i.e., surveys); and
  - Measures of clinical quality such as whether the encounter was appropriate to be delivered via telemental health

### ***Additional Guidance for Telemental Health for ACT Teams***

- Telemental Health Practitioner may be requested because they are necessary to improve the quality of care of individuals receiving services, or because they are necessary to address workforce shortages
- The practitioner meets standards established in Part 596.6(a)(1), including a current, valid license, permit, or limited permit to practice in NYS, and:
  - Psychiatrists and Psychiatric Nurse Practitioners must meet NYS ACT standards for Psychiatric Prescriber (PP), including training requirements through the ACT Institute;

- The practitioner is familiar with NYS ACT Program Guidelines, Standards of Care, Part 508, and Part 596; and
- The practitioner receives training and information on systems within the ACT Team's service area/community
- ACT teams must develop protocols and procedures to address the following:
  - Emergencies and crisis response, specifically a plan for availability/accessibility of the practitioner by the ACT Team;
  - Presence of ACT staff during the delivery of Telemental Health Services;
  - Ownership and maintenance of records, including documentation of service delivery/appointment is entered into the case record within 1-2 business days;
  - Practitioner access to the recipient's case record; and
  - Active involvement of the practitioner in the ACT Team, including:
    - Practitioner participation routinely and regularly in the daily meeting (via VTC or another teleconferencing vehicle); and
    - When applicable, communication with the nurse within 24 hours of service delivery/appointment to communicate updates or medication changes
- Telemental Health may only be delivered for a limited period, not to exceed one year. Upon demonstration of a continued shortage or need beyond one year, a request can be made to extend for a period not to exceed one additional year.

***Additional Guidance for Telemental Health for PROS***

- Telemental Health Services may only be delivered in a PROS setting by psychiatrists and nurse practitioners in psychiatry as defined in Part 596.5(c)(3)
- Telemental Health Practitioner may be requested because they are necessary to improve the quality of care of individuals receiving services, or because they are necessary to address workforce shortages
- The Practitioner meets standards established in Part 596.6(a)(1), including a current, valid license, permit, or limited permit to practice in NYS, and:
  - The practitioner must adhere to the same laws, rules, and regulations and exercise the same standards of care and competencies required for in-house delivered services; and
  - The practitioner must utilize evidence-based telehealth or Telemental Health Practice guidelines and standards of practice, to the degree they are available, to ensure recipient safety, quality of care, and positive outcomes
- The originating/spoke site is limited to the physical location of the PROS program in which the participant is enrolled
- PROS programs must develop protocols and procedures to address the following:
  - Availability of PROS staff during the delivery of Telemental Health Services as needed, and in the case of an emergency;
  - Ownership and maintenance of records, including documentation of service delivery/appointment is entered into the case record within 1-2 business days;
  - Practitioner access to the recipient's case record; and
  - Active involvement of the practitioner with PROS staff, including:
    - Practitioner participation in staff meetings or participant-specific meetings, as necessary; and
    - Communication with the PROS program staff within 24 hours of service delivery/appointment to communicate updates or medication changes
  - Telemental Health Services may only be used for purposes of delivering PROS services for a limited period, not to exceed one year. Upon demonstration of a continued shortage, such time may be extended for a period not to exceed one additional year.

## Billing Guidelines

14 NYCRR Part 596 removes the need for licensed or designated mental health programs to seek regulatory waivers to utilize telemental health. Once the program has requested and received approval from OMH to utilize telemental health, claims may be submitted for Medicaid fee-for-service and Medicaid managed care reimbursement as long as the program meets the requirements outlined below.

*Note: Medicaid Managed Care plans are currently required to reimburse outpatient Article 31 Mental Health programs and HCBS services at the fee-for-service rates for services provided. Programs will be required to submit the managed care claims using the same codes and modifiers required by fee-for-service Medicaid, as outlined herein.*

*Licensed or designated programs utilizing telemental health **MUST** use the claim modifiers “95” or “GT” to identify use of Telemental Health Services. This modifier must be on each claim line that represents a service via telemental health. This modifier may not be used until the program has an approved Administrative Action, or approval letter for designated providers, reflecting acknowledgement that the program attests to understanding the clinical, technical and financial guidelines for telemental health. Additionally, any Evaluation and Management (E&M) codes used must include the HE modifier to identify Mental Health.*

*Telemental Health Services that are **NOT** identified on Medicaid FFS claims or Medicaid Managed Care “paid encounter” claims with the telemental health 95 or GT modifier will be considered non-compliant on audit and may lead to a disallowance. In addition, continued lack of use of appropriate modifiers may lead to having a telemental health designation rescinded.*

### **Rules for Medicaid and Medicaid Managed Care Reimbursement:**

- Federal terms relevant for purposes of telemental health reimbursement are “spoke” and “hub.” The term “spoke” refers to the physical location of the recipient during a telemental health service. The term “hub” means the physical location of the Telemental Health Practitioner during a telemental health service. To constitute a reimbursable service, the person receiving services is located at the spoke site and the Telemental Health Practitioner is located at the hub site.
- Those services which providers are authorized to provide via license or designation are eligible for Medicaid and Medicaid managed care reimbursement when provided using telemental health.
- Only Telemental Health Practitioners may deliver Medicaid fee-for-service and Medicaid managed care reimbursable telemental health services. Telemental Health Practitioners participating in telemental health services delivered to recipients enrolled at OMH licensed or designated sites must be Medicaid and Medicare enrolled. Also, Telemental Health Practitioners intending to participate in planned telemental health treatment sessions are subject to the same background checks as on-site treating practitioners prior to the provision of service.
- The Telemental Health Practitioner at the distant/hub site must be licensed in New York State and practicing within his/her scope of specialty practice.

- All Telemental Health Practitioners delivering Telemental Health Services must be “affiliated” (the Medicaid term for “credentialed”) with the program submitting the claim for the telemental health service BEFORE the claim is submitted for payment. The process for affiliation is no different than currently required for staff delivering on-site services. If the originating/spoke site is a hospital, they must be credentialed and privileged at the originating/spoke site facility.
- Recipients receiving services via telemental health may be accompanied by a staff member during the session or may be alone. If an assessment has not yet been done on the recipient or if the assessment or treatment plan recommends that the recipient be accompanied during telemental health encounters, the recipient must be accompanied for the session to be reimbursed by Medicaid or Medicaid managed care.
- All regulatory requirements applicable to mental health services (e.g., development and periodic review of treatment plans, entry of progress notes, etc.), apply to telemental health encounters to the same extent as they apply to typical “face-to-face” sessions. It is the obligation of the distant Telemental Health Practitioner and the provider site licensed or designated by the Office to make sure that the necessary documents are received in a timely manner (including fax dates and times, e-mails accompanying PDFs, etc.) and entered into the recipient’s clinical record. Absent or untimely documents will be subject to audit and financial recoupment, as applicable.
- Under the Medicaid program, Telemental Health Services are covered when medically necessary and under the following circumstances:
  - The request for Telemental Health Services and the rationale for the request are documented in the individual's clinical record;
  - The clinical record includes documentation that the encounter occurred;
  - If the person receiving services is not present during the provision of the Telemental Health Service, the service is not eligible for Medicaid reimbursement.
- The following interactions do not constitute reimbursable Telemental Health Services;
  - telephone conversations;
  - e-mail messages; or
  - text messages.
- The provider site licensed or designated by the Office where the recipient is admitted may bill for administrative expenses only when a Telemental Health Service connection is being provided and a qualified mental health professional is not present at the originating/spoke site with the recipient at the time of the encounter. Administrative expenses cannot be billed for if the recipient is outside of a licensed facility when the service is delivered (i.e., in their home or other temporary location). Providers will use code Q3014 to bill for administrative expenses.
- Reimbursement for services provided via telemental health must be in accordance with the rates and fees established by the Office and approved by the Director of the Budget.
- If a Telemental Health Service is undeliverable due to a failure of transmission or other technical difficulty, reimbursement shall not be provided.



## Technology and Telecommunications

OMH has collaborated with the NYS Information Technology Services (ITS) to develop videoconferencing technology criteria. In order for telemental health claims to be reimbursed, videoconferencing equipment must be employed allowing quality synchronous video and voice exchange between provider and recipient.

For informational purposes, below are the three configuration standards approved by NYS for Telemental Health Services provided by OMH State Operations.

Configuration:	Dedicated Videoconferencing	PC-Based Solution	Mobile
Examples:	Telepresence Systems with remote control of pan, tilt, zoom by the hub of the spoke camera	PC or Laptop & Webcam with speakers, microphone, and remote control of pan, tilt, zoom by the hub of the spoke camera	Tablets with remote control of pan, tilt, zoom by the hub of the spoke camera

## Guidance for Contracting with Telemedicine Companies

OMH licensed or designated programs looking to contract with a Telemedicine company must be approved by OMH to deliver services in this manner. All requirements related to Part 596 must be requested, and approved, prior to engaging in a contractual relationship with a company to utilize telemental health.

If the proposed contracted Telemedicine company is accredited by a generally accepted and nationally recognized telemedicine accrediting entity acceptable to the Commissioner of the NYS Office of Mental Health, OMH will accept accreditation as evidence of regulatory compliance for a subset of Part 596. The specific regulations considered to be in compliance will be dependent upon the accreditation requirements of the organization that has granted the accreditation. The requesting program will need to demonstrate compliance for any regulations that are not deemed to be covered via accreditation.

If the proposed contracted Telemedicine company has not be awarded the above noted accreditation, then the program must demonstrate how the contracted company and the practitioner will be compliant with all of Part 596. Of particular emphasis will be a review of the practitioner’s access to the program’s medical record and their e-prescribe program. In addition, the practitioner must be:

- Licensed to practice in NYS
- Enrolled in the NYS Medicaid program
- Credentialed and privileged at the spoke program, and
- Has the capacity for alternate communication means should the video transmission fail.

In addition, it is the expectation that the contracted practitioner will be available for emergency consultations, or that the program will have alternate practitioners available to assist in a clinical emergency.

# APPENDIX 1

# Attestation of Compliance for OMH Approval to Offer Telemental Health Services

## 14 NYCRR Section 596

Part 596 of Title 14 NYCRR permits the provision of Telemental Health Services by OMH programs licensed or designated pursuant to Article 31 of the NYS Mental Hygiene Law, if approved to do so by the Office of Mental Health (OMH). Approval shall be based upon acceptance of a written plan that addresses a series of standards and procedures. The following Attestation of Compliance must be completed and submitted with the written plan to verify compliance with such required standards and procedures.

### **Instructions for Applicant:**

For each required standard or procedure, place your initials to verify compliance and include the page or section number(s) of the plan that addresses same. **(This Attestation consists of four pages.)**

### **For all provider types:**

1. The plan confirms the Telemental Health Practitioner is being requested because they are necessary to improve the quality of care of individuals receiving services, or because they are necessary to address workforce shortages.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

2. The plan confirms the practitioner meets standards established in Part 596.6(a)(1), including a current, valid license, permit, or limited permit to practice in NYS.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

3. The plan identifies the transmission linkages on which Telemental Health Services will be performed, which are dedicated, secure, meet minimum federal and New York State requirements (e.g., HIPAA Security Rules) and are consistent with guidelines issued by the Office of Mental Health.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

4. The plan identifies acceptable authentication and identification procedures which will be employed by both the sender and the receiver.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

5. The plan includes procedures and protocols designed to ensure that confidentiality is maintained as required by NYS Mental Hygiene Law Section 33.13 and 45 CFR Parts 160 and 164 (HIPAA Privacy Rules).

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

6. The plan confirms that the spaces occupied by the recipient and the distant Telemental Health Practitioner meet the minimum standards for privacy expected for recipient-clinician interaction.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

7. The plan confirms that culturally competent interpreter services will be provided when the recipient and Telemental Health Practitioner do not speak the same language and identifies methods by which this will be fulfilled.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

8. The plan contemplates the provision of Telemental Health Services to recipients under age 18 and describes how clinically-based decisions will be made with respect to whether to include clinical staff in the room with the recipient consistent with OMH clinical guidelines.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

9. There is a written procedure at each site which describes the availability of an alternative to the Telemental Health Practitioner if requested by the recipient. For recipients who do not want to receive services via telemental health, the program will make a referral to an in-person practitioner or provide a practitioner for in-person assessment if requested.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

10. The plan includes procedures for prescribing medications.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

11. The plan describes how progress notes and treatment plans will be developed and maintained.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

12. The plan identifies procedures for assessing recipients to determine whether a recipient is appropriate for Telemental Health Services.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

13. The plan describes how recipients will be informed about Telemental Health Services and how consent to participate will be obtained.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

14. The plan includes procedures in the event that emergency hospitalization becomes necessary, including specifics for situations in which the recipient's place of residence may be considered the originating/spoke site.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

15. The plan includes a procedure describing the contingency plan when there is a failure of transmission or other technical difficulties that render the service undeliverable.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

16. The plan confirms that a review of Telemental Health Services is incorporated within the provider's quality management process.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

17. The plan confirms that claim modifiers "95" or "GT" will be used on each claim line that represents a service via telemental health.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

**Specific to ACT:**

18. The plan confirms the practitioner meets the following:
- a. Psychiatrists and Psychiatric Nurse Practitioners meet NYS ACT standards for Psychiatric Prescriber (PP), including training requirements through the ACT Institute.
  - b. The practitioner is familiar with NYS ACT Program Guidelines, Standards of Care, Part 508, and Part 596.
  - c. The practitioner received training and information on systems within the ACT Team's service area/community.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

19. The plan includes ACT team developed protocols and procedures to address the following:
- a. Emergencies and crisis response, specifically a plan for availability/accessibility of the practitioner by the ACT Team.
  - b. Presence of ACT staff during the delivery of telemental health services.
  - c. Ownership and maintenance of records, including documentation of service delivery/appointment is entered into the case record within 1-2 business days.
  - d. Practitioner access to the recipient's case record.
  - e. Active involvement of the practitioner in the ACT Team, including:
    - i. Practitioner participation routinely and regularly in the daily meeting (via VTC or another teleconferencing vehicle), and
    - ii. Communication with the nurse within 24 hours of service delivery/ appointment to communicate updates or medication changes.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

20. The plan confirms the ACT team understands that telemental health may only be delivered for a limited period, not to exceed one year. Upon demonstration of a continued shortage or need beyond one year, a request can be made to extend for a period not to exceed one additional year.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

**Specific to PROS:**

21. The plan includes protocols and procedures to address the following:
- a. Availability of PROS staff during the delivery of Telemental Health Services as needed, and in the case of an emergency.
  - b. Ownership and maintenance of records, including documentation of service delivery/appointment is entered into the case record within 1-2 business days.
  - c. Practitioner access to the recipient's case record.
  - d. Active involvement of the practitioner with PROS staff, including:
    - i. Practitioner participation in staff meetings or participant-specific meetings, as necessary, and
    - ii. Communication with the PROS program staff within 24 hours of service delivery/ appointment to communicate updates or medication changes.

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

22. The plan confirms the PROS program understands telemental health may only be delivered for a limited period, not to exceed one year. Upon demonstration of a continued shortage or need beyond one year, a request can be made to extend for a period not to exceed one additional year

Initials: \_\_\_\_\_ Page/Section Number(s): \_\_\_\_\_

**Statement of Compliance and Signature:**

*I, [Print full name and title of the applicant]\_\_\_\_\_hereby attest that the representations made on this attestation form are true, accurate and complete to the best of my knowledge. I understand that any falsification, omission, or concealment of material fact may result in revocation of approval to provide Telemental Health Services at the above-referenced location(s) and/or may subject me to administrative, civil, or criminal liability."*

Program Name: \_\_\_\_\_

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Notary Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\*\*\*\*\*

**For OMH Field Office:**

*This Attestation of Compliance has been reviewed for completeness. The Field Office is accepting the written plan of this Applicant based upon the representations made in this Attestation.*

Field Office Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## **APPENDIX 2**

# Telemental Health Services Technical Guidelines Checklist for Local Providers

14 NYCRR Section 596 provides that OMH approval of Telemental Health Services in OMH licensed or designated programs will be based upon approval of a written plan that meets a variety of standards. Included in these standards is the following as defined in Section 596.6 (b)(4) "All Telemental Health Services must be performed on dedicated service transmission linkages that meet minimum federal and state requirements, including but not limited to 45 C.F.R. Parts 160 and 164 (HIPAA Security Rules), and which are consistent with guidelines of the Office. Transmissions must employ acceptable authentication and identification procedures by both the sender and the receiver."

The following checklist is designed to ensure plans developed by Local Providers are consistent with OMH Technical Specifications guidelines with respect to videoconferencing. Videoconferencing can be characterized by key features: the videoconferencing application, device characteristics, including their mobility, network or connectivity features, and how privacy and security are maintained. A check mark indicates the plan contains provisions that conform to the standard. **(This checklist consists of three pages.)**

***Telemental Health Services Providers will ensure the confidentiality, integrity and availability of recipient information, in accordance with Federal, State and NYS OMH regulations by:***

- Developing and implementing policies and procedures to secure and control access to recipient data
- Minimally establishing HIPAA Business Associate Agreements (BAA) with any and all third-parties supporting Telemental Health Services, including applicable conferencing service providers
- Employing encryption in transit and at rest; leveraging multi-factor authentication technology and using strong passwords
- Continuously evaluating competencies and completing required security and privacy training at least annually
- Ensure all staff is trained in appropriate use of the solution
- Developing and documenting process and provisions for participant vetting, system/solution security and security/privacy of meeting recordings
- Define consent process for recorded session with recipients
- Obtaining appropriate consultation with technology experts to augment knowledge of the technologies in use and risk associated with those technologies to protect and maintain the confidentiality of recipient's data
- Discussing fully the recipient's role in ensuring that sessions and session settings are not interrupted or compromised
- Carefully assess the remote environment to ensure efficacy, privacy and/or safety of the services offered
- Developing mechanisms for secure configurations
- Discussing what recipient data will be stored, how it will be accessed, the security of the information using given technology and any vulnerability to the confidentiality during the information lifecycle (creation, modification and timely destruction)
- Developing and documenting a retention and disposition plan for recipient data and images and communicate to recipient

**Videoconferencing Applications:**

- Applications include appropriate verification, confidentiality, and security parameters necessary to ensure its utilization for this purpose
- Video Software platforms are not in use when they include social media functions or allow others to enter sessions at will



**Security and Protection of Data Transmission and Information:**

- Steps will be taken to ensure security measures are in place to protect data and information related to recipients from unintended access or disclosure
- When possible, all end points and all communications traversals should be managed through a managed network firewall and/or a video-conferencing authentication server
- Confidential recipient data (including PHI) will be encrypted for storage or transmission, and other secure methods shall be utilized, such as safe hardware and software and robust passwords to protect electronically stored or transmitted data
- Protected Health Information (PHI) and other confidential data is encrypted, backed up to or stored on secure data storage locations. Cloud services unable to achieve compliance will not be used for PHI or confidential information. A HIPAA Business Associate Agreement (BAA) must be established and maintained with any cloud service supporting unsecured PHI associated with telemental health services.
- Professionals and recipients will discuss any intention to record services and how this information is to be stored and how privacy will be protected
- Unauthorized users are not allowed to access sensitive information stored on the device or use the device to access sensitive applications or network resources
- Session logs that are stored by 3rd party location are secure and granted only to authorized personnel
- Videoconferencing software does not allow multiple concurrent sessions to be opened by a single user. If this occurs first session will be logged off or second session blocked
- HIPAA and state privacy requirements will be followed at all times to protect the recipient's privacy
- Network and software security protocols to protect privacy and confidentiality are provided, as well as appropriate user accessibility and authentication protocols
- Measures to safeguard data against intentional and unintentional corruption are in place during storage and transmission
- Security measures are in place to protect and maintain the confidentiality of the data and information relating to recipients
- Videoconferencing software capable of blocking provider's caller ID at the request of the provider is utilized

**Transmission Speed and Bandwidth:**

- Transmission speed should provide smooth and natural communication pace for clinical encounters). The minimum necessary protocols use systems that transmit data at a minimum of 384 Kbps)
- The resolution of the display monitor shall match as closely as possible the resolution of the acquired image being displayed or the originally acquired image resolution should be accessible using pan, tilt, zoom functions
- Each end point uses bandwidth sufficient to achieve at least the minimum quality shown above during normal operation
- Videoconferencing software should be able to adapt to changes in bandwidth environments without losing connection
- When possible, each party should use the most reliable connection to access the Internet and use wired connections if available

**Encryption:**

- Encryption of data in transit and, if applicable, at rest: AES 256 bit or higher with Transport Layer Security (TLS 1.2 or higher)
- Use of validated digital certificates required
- Audio and video transmission is secured by using point to point encryption that meets recognized standards (Federal Information Processing Standard) (FIPS 140-2)) is the US Government security standard used to accredit encryption standards of software and list encryption such as AES as providing acceptable levels of security

- If data is stored on the hard drive, whole disk encryption to the FIPS standard is used to ensure security and privacy. Re-boot authentication shall also be used
- Recording of services is discussed with recipient and encrypted for maximum security. Access is available to authorized personnel only and stored in a secure location

**Equipment:**

- Equipment used is based on Telecommunication Standard (International Telecommunications Union (ITU)) which allow for successful conferencing regardless of platform or manufacturer. See H- Video; G-Audio T- Data Series.
- Videoconferencing with Personal Computers utilized for VTC complies with all facility, state and federal regulations applicable to both VTC and mental healthcare uses
- Personal Computers/Laptops/Tablets have up to date antivirus software and a personal firewall appropriately configured to restrict inappropriate access
- Personal Computers/Laptops/Tablets have the latest security patches and updates applied to operating system and third-party applications that may be utilized for this purpose
- When feasible, Personal Computers/Laptops/Tablets use professional grade or high-quality cameras and audio equipment
- In the event of disruption, there is an appropriate backup plan in place
- Processes are in place to ensure physical security of equipment and electronic security of data

**Additional Comments:**

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**Do you certify:**

1. that your organization has read, understands, and will follow Telemental Health Services equipment best practices as outlined by the American Telemedicine Association;
2. that the information submitted on this form is complete and accurate;
3. that you have the equipment installed and operable on site and that testing has been conducted and successful; and
4. that you understand that failure to follow these practices could result in removal of approval of your organization to offer Telemental Health Services?

Yes       No

Program Name: \_\_\_\_\_

Signature and Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Reference Material: American Telemedicine Association (<https://www.americantelemed.org/>)**

# APPENDIX 3

## Eligibility for Submitting a Request to Conduct Telemental Health Services

- Distant/hub site practitioner has a valid NYS license to practice in NYS
- Provider of service has not been terminated, suspended or barred from the Medicaid or Medicare program
- If the originating/spoke site is a hospital, the practitioner at the distant/hub site must be credentialed and privileged at the originating/spoke site hospital
- Provider site licensed or designated by the Office where the recipient is admitted initiates the request
- Recipient receiving services is located at the originating/spoke site and the Telemental Health Practitioner is located at the distant/hub site
- The practitioner at the distant/hub site is a Telemental Health Practitioner as defined in Section 596.4(q), and is practicing within his/her scope of specialty services

## Revision History

Version	Updated By	Change Description	Date
13	A. Smith	Incorporated previous guidance for contracting with telemedicine companies within this guidance document	11/21/19
12	A. Smith	Incorporated feedback from counsel and state operations	10/31/19
11	A. Smith	Incorporated feedback from ITS and Children's Services, and added new sections relevant to ACT & PROS based on program feedback	8/30/19
10	L. Roberts/K. Snyder/C. Stanley	Updated technology and provider specs	7/23/19
9	A. Smith	Updated/revised all sections to align with new Part 596 regulations	7/1/19
8	A. Smith	Include language specific to pan, tilt, zoom within technology and telecommunications section and technical guidelines checklist	1/25/17
7	A. Smith	Formatting and editing based on feedback from Telepsychiatry Executive Workgroup	10/24/16
6	A. Smith/S. Kuriger/ L. Roberts	Updated/revised all sections to align with new Part 596 regulations	9/19/16
5	A. Smith S. Kuriger	Final revisions related to new Part 596; added program name to appendix 1 & 2	8/18/16
4	A. Smith S. Kuriger	Updated to reflect changes in regulations from 599.17 to 596; added Appendix 2	5/2/16
3	L. Roberts	Replaced CISCO with Telepresence systems, added EX90, and added Certification Process Workflow	7/22/15
2	N. Brier T. Shudt	Finance Reimbursement Changes applied ITS Technology and Telecommunications Revisions	7/14/15