

**TITLE 16. BOARD OF BEHAVIORAL SCIENCES
DEPARTMENT OF CONSUMER AFFAIRS**

MODIFIED TEXT

**Title 16, Division 18, California Code of Regulations
Section 1815.5**

Originally proposed amendments to the regulatory language are shown in single underline for text to be added and ~~single strikethrough~~ for text to be deleted.

Modifications to the proposed regulatory language are shown in double underline for new text and ~~double strikethrough~~ for newly proposed deletions.

AMEND § 1815.5. IN TITLE 16 OF DIVISION 18 OF THE CALIFORNIA CODE OF REGULATIONS TO READ AS FOLLOWS:

§ 1815.5. Standards of Practice for Telehealth.

- (a) ~~Except as provided in section 2290.5 of the Code for trainees, All~~ all persons engaging in the practice of marriage and family therapy, educational psychology, clinical social work, or professional clinical counseling via telehealth, as defined in ~~Section 2290.5 of the Code, with a client who is physically located in this State must have a valid and current~~ and active license or registration issued by the Board.
- (b) All psychotherapy services offered by board licensees and registrants via telehealth fall within the jurisdiction of the board just as traditional face-to-face services do. Therefore, all psychotherapy services offered via telehealth are subject to the board's statutes and regulations.
- (c) Upon initiation of telehealth services, a licensee or registrant shall do the following:
 - (1) Obtain informed consent from the client consistent with ~~Section 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~~ their 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.

(d) Each time a licensee or registrant provides services via telehealth, ~~he or she~~ 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. Ensure that the technology, method, and equipment used to provide services via telehealth~~ Comply with all applicable federal and state privacy, confidentiality, and security laws and regulations governing the use and disclosure of a client's medical information or protected health information, including the following:

i. The Confidentiality of Medical Information Act (Part 2.6 (commencing with section 56) of Division 1 of the Civil Code) with respect to a client's medical information.

ii. ~~The Health Insurance Portability and Accountability Act of 1996 ("HIPAA" (42 U.S.C. §§ 1320d-1320d-8)) as amended by subsequent legislation~~ HIPAA's security standards in Subpart C of Part 164, 45 Code of Federal Regulations (C.F.R) sections 164.302 through 164.318, with respect to a client's PHI. For the purposes of this subparagraph, "HIPAA" means the Health Insurance Portability and Accountability Act of 1996 (42 United States Code sections 1320d-1320d-8) as amended by subsequent legislation and the implementation of Privacy, Security, and Enforcement Rules under 45 C.F.R. Part 160 and Subparts A, C, D, and E of Part 164.

iii. ~~The regulations promulgated under HIPAA by the United States Department of Health and Human Services, including 45 Code of Federal Regulations parts 160 and 164, as are currently in effect or as later amended. For the purposes of subparagraphs (i) and (ii) of paragraph (3):~~

(aa). "Medical information" has the meaning set forth in section 56.05 of the Civil Code.

(bb). "Protected Health Information (PHI)" means the client's "individually identifiable health information" as defined in section 1320d of Title 42

of the United States Code. PHI includes a client's medical history, or mental health history, which is a written record of the client's personal health history that provides information about diagnoses, illnesses, surgeries, hospitalizations, medications, treatments, and results of physical or mental exams and tests.

(e) A licensee or registrant of this state may provide telehealth services to clients 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.

~~(f) Failure to comply with these provisions shall be considered unprofessional conduct.~~

Note: Authority cited: Sections 4980.60 and 4990.20, Business and Professions Code.
Reference: Sections 2290.5, 4980, 4989.50, 4996, 4999.30 and 4999.82, Business and Professions Code; and Sections 56 et seq., Civil Code.