

ALABAMA BOARD OF EXAMINERS IN
MARRIAGE AND FAMILY THERAPY
ADMINISTRATIVE CODE

CHAPTER 536-X-8
STANDARDS OF CONDUCT OF MARRIAGE AND FAMILY THERAPISTS

536-X-8-.10 Technology-Assisted Professional Services.

(1) Adhering to Laws and Rules in Each Jurisdiction

(a) Marriage and Family Therapists are authorized to practice teletherapy within the boundaries of the state of Alabama. Marriage and family therapists are licensed to practice in Alabama serving the citizens of Alabama. The practice location is derived from the client geographical location. The burden resides with the marriage and family therapists concerning legal and ethical practice behaviors and client care no matter where the client resides.

(b) Marriage and family Therapists and supervisors follow all applicable laws regarding location of practice and services, and do not use technologically-assisted means for practicing outside of their allowed jurisdictions.

(c) Treatment, consultation, and supervision utilizing technology-assisted services will be held to the same standards of appropriate practice as those in traditional (in-person) settings.

(2) Identity Verification of Client

(a) An appropriate therapeutic relationship has not been established when the identity of the therapist may be unknown to the client or the identity of the client(s) may be unknown to the therapist. An initial face-to-face meeting, which may utilize HIPAA compliant videoconferencing, is highly recommended to verify the identity of the client. If such verification is not possible, the burden is on the therapist to document appropriate verification of the client.

(b) A therapist shall take reasonable steps to verify the location and identify the client(s) at the onset of each session before rendering therapy using teletherapy.

(c) Therapists shall develop written procedures for verifying the identity of the recipient, his or her current location, and readiness to proceed at the beginning of each contact. Examples of verification means include the use of code words, phrases or inquiries. (For example, "is this a good time to proceed?")

(3) Establishing the Therapist-Client Relationship

(a) A therapist who engages in technology-assisted services must provide the client with his/her license number and information on how to contact the board by telephone, electronic communication, or mail, and must adhere to all other rules and regulations in the state of Alabama.

(b) The relationship is clearly established when informed consent documentation is signed. Therapists must communicate any risks and benefits of the teletherapy services to be offered to the client(s) and document such communication. Clients, whether contracting for services as individuals, dyads, families, or groups, must be made aware of the risks and responsibilities associated with technology-assisted services. Therapists are to advise clients in writing of these risks, and of both the therapist's and clients'/supervisees' responsibilities for minimizing such risks.

(c) Screening for client technological capabilities is part of the initial intake processes. (Ex. This type of screening could be accomplished by asking clients to complete a brief questionnaire about their technical and cognitive capacities).

(d) Teletherapy services must have accurate and transparent information about the website, owner/operator, location and contact information, including a domain name that accurately reflects the identity.

(e) The therapist and/or client shall use connection test tools (e.g., bandwidth test) to test the connection before starting their videoconferencing session to ensure the connection has sufficient quality to support the session.

(4) Cultural Competency

(a) Therapists shall be aware of the limitations of teletherapy and recognize and respect cultural differences (e.g. when therapist is unable to see the client, non-verbal cues).

(b) Therapists shall select and develop appropriate online methods, skills, and techniques that are attuned to their clients' cultural, bicultural, or marginalized experiences in their environments.

(c) Client perspectives of therapy and service delivery via technology may differ. In addition, therapists shall know the strengths and limitations of current electronic modalities, process and practice models, to provide services that are applicable and relevant to the needs of culturally and geographically diverse clients and members of vulnerable populations.

(d) Therapists shall consider cultural differences, including clarify of communications.

(e) Sensory deficits, especially visual and auditory, can affect the ability to interact over a videoconference connection. Therapists shall consider the use of technologies that can help with visual or auditory deficit. Techniques should be appropriate for a client who may be cognitively impaired, or find it difficult to adapt to the technology.

(5) Informed Consent/Client Choice to Engage in Teletherapy

(a) The therapist must document the provision of consent in the record prior to the onset of therapy. The consent shall include all information contained in the consent process for in-person care including discussion of the structure and timing of services, record keeping, scheduling, privacy, potential risks, confidentiality, mandatory reporting and billing.

(b) This information shall be specific to the identified service delivery type and include considerations for the particular individual.

(c) The information must be provided in language that can be easily understood by the client. This is particularly important when discussing technical issues like encryption or the potential for technical failure.

(d) Alabama laws regarding verbal or written consent must be followed. If written consent is required, electronic signatures may be used if they are allowed by Alabama requirements.

(e) In addition to the usual and customary protocol of informed consent between therapist and client for face-to-face counseling, the following issues, unique to the use of teletherapy, technology, and/or social media, shall be addressed in the informed consent process:

1. confidentiality and the limits to confidentiality in electronic communication;

2. teletherapy training and/or credentials, physical location of practice, and contact information;

3. licensure qualifications and information on reporting complaints to appropriate licensing boards;

4. risks and benefits or engaging in the use of teletherapy, technology, and/or social media;

5. possibility of technology failure and alternate methods of service delivery;
 6. process by which client information will be documented and stored;
 7. anticipated response time and acceptable ways to contact the therapist;
 - (i) agreed upon emergency procedures;
 - (ii) procedures for coordination of care with other professionals;
 - (iii) conditions under which teletherapy services may be terminated and a referral made to in-person care;
 8. cultural and/or language differences that may affect delivery of services;
 9. possible denial of insurance benefits;
 10. social media policy;
 11. specific services provided, and
 12. information collected and any passive tracking mechanism utilized.
- (f) Therapists must provide clients clear mechanisms to:
1. access, supplement, and amend client-provided personal health information;
 2. provide feedback regarding the site and the quality of information and services; and
 3. register complaints, including information regarding filing a complaint with the applicable state licensing board(s).

(6) Working with Children

- (a) Therapists must determine if a client is a minor and, therefore, in need of parental/guardian consent. Before providing teletherapy/therapy services to a minor, therapist must verify the identity of the parent, guardian, or other person consenting to the minor's treatment.
- (b) In cases where conservatorship, guardianship or parental rights of the client have been modified by the court, therapists shall obtain and review a written copy of the

custody agreement or court order before the onset of treatment.

(7) Acknowledgement of Limitations of Teletherapy

(a) Therapists must: (i) determine that teletherapy is appropriate for clients, considering professional, intellectual, emotional and physical needs; (ii) inform clients of the potential risks and benefits associated with teletherapy; and (iii) ensure the security of the communication medium.

(b) Clients must be made aware of the risks and responsibilities associated with teletherapy. Therapists are to advise clients in writing of these risks and of both the therapist's and clients' responsibilities for minimizing such risks.

(c) Therapists shall consider the differences between face-to-face and electronic communication (nonverbal and verbal cues) and how these may affect the therapy process. Therapists shall educate clients on how to prevent and address potential misunderstandings arising from the lack of visual cues and voice intonations when communicating electronically.

(d) Therapists shall be aware of the limitations of teletherapy and recognize and respect cultural differences (e.g. when therapist is unable to see the client, non-verbal cues).

(e) Therapists shall recognize the members of the same family system may have different levels of competence and preference using technology. Therapists shall acknowledge power, dynamics when there are differing levels of technological competence within a family system.

(f) Before therapists engage in providing teletherapy services, they must conduct an initial assessment to determine the appropriateness of the teletherapy services to be provided for the client(s). Such an assessment may include the examination of the potential risks and benefits to provide teletherapy services for the client's particular needs, the multicultural and ethical issues that may arise, and a review of the most appropriate medium (e.g., video conference, text, email, etc.) or best options available for the service delivery. It may also include considering whether comparable in-person services are available, and why services delivered via teletherapy are equivalent or preferable to such services. In addition, it is incumbent on the therapist to engage in a continual assessment of the appropriateness of providing teletherapy services throughout the duration of the service delivery.

(8) Confidentiality of Communication

(a) Therapists utilizing teletherapy must meet or exceed applicable federal and state legal requirements of health information privacy including HIPAA/HITECH.

(b) Therapists shall assess carefully the remote environment in which services will be provided, to determine what impact, if any, there might be to the efficacy, privacy and/or safety of the proposed intervention offered via teletherapy.

(c) Therapists must understand and inform their clients of the limits to confidentiality and risks to the possible access or disclosure of confidential data and information that may occur during service delivery, including the risks of access to electronic communications.

(9) Professional Boundaries Regarding Virtual Presence

(a) Reasonable expectations about contact between sessions must be discussed and verified with the client. At the start of the treatment, the client and therapist shall discuss whether or not the provider will be available for phone or electronic contact between sessions and conditions under which such contact is appropriate. The therapist shall provide a specific time frame for expected response between session contacts. This must also include discussion of emergency management between sessions, along with fee structure related to the different types of services.

(b) To facilitate the secure provision of information, therapists must provide in writing the appropriate ways to contact them.

(c) Marriage and family therapists are discouraged from engaging personal virtual relationships with clients (e.g., through social and other media). A. Therapists shall document any known virtual relationships with clients; B. Documentation of therapeutic intent is required; and C. The burden of proof is on the therapist to ensure that the virtual relationship does no emotional or psychological harm to the client(s).

(d) Therapists shall discuss and document, and must establish, professional boundaries with clients regarding the appropriate use and/or application of technology and the limitations of its use within the counseling relationship (e.g., lack of confidentiality, circumstances when not appropriate to use).

(10) Social Media and Virtual Presence

(a) Therapists shall develop written procedures for the use of social media and other related digital technology with clients. These written procedures, at a minimum, provide

appropriate protections against the disclosure of confidential information and identify that personal social media accounts are distinct from any used for professional purposes.

(b) In cases where therapists wish to maintain a professional and personal presence for social media use, separate professional and personal web pages and profiles shall be created to clearly distinguish between the two kinds of virtual presence.

(c) Therapists must respect the privacy of their clients' presence on social media unless given consent to view such information.

(d) Therapists must avoid the use of public social media sources (e.g., tweets, blogs, etc.) to provide confidential information.

(e) Therapists shall refrain from referring to clients generally or specifically on social media, blogs or social networking sites.

(11) Sexual Issues in Teletherapy

(a) Treatment and/or consultation utilizing technology-assisted services must be held to the same standards of appropriate practice as those in face to face settings.

(b) Therapists must be aware of statutes and regulations of relevant jurisdictions regarding sexual interactions with current or former clients or with known members of the client's family system.

(c) Marriage and family therapists shall not solicit through social media or in video conferencing sexual favors, participate in online sexual behaviors including sending or receiving sexual pictures, or making sexual advances with a current client or family member of a current client or with a former client.

(12) Documentation/Record Keeping

(a) Synchronous and asynchronous client-related electronic communications, shall be stored and filed in the client's medical record, consistent with traditional record-keeping policies and procedures.

(b) Written policies and procedures must be maintained at the same standard as face-to-face services for documentation, maintenance, and transmission of the records of the services using teletherapy technologies.

(c) Services must be accurately documented as remote services and include dates, place of both therapist and client(s) location, duration, and type of service(s) provided.

(d) Requests for access to records require written authorization from the client with a clear indication of what types of data and which information is to be released.

(e) Marriage and family therapists must inform clients on how records, including audiovisual session data are maintained electronically. This includes, but is not limited to, the type of encryption and security assigned to the records, and if/for how long archival storage of transaction records is maintained.

(f) Marriage and family therapists cannot release audiovisual session data without notarized client written authorization indicating specifically that audio/video communications are to be released.

(g) Therapists must create policies and procedures for the technologies used to create, store, and transmit data and information and about the secure destruction of data.

(h) Clients must be informed in writing of the limitations and protections offered by the therapist's technology.

(i) The therapist must obtain written permission prior to recording any/or part of the teletherapy session. This authorization can be a part of an informed consent agreement signed at the beginning of therapy, and must be re-evaluated throughout therapy.

(13) Payment and Billing Procedures

(a) Prior to the commencement of initial services, the client shall be informed of any and all financial charges that may arise from the services to be provided. Arrangement for payment shall be completed prior to the commencement of services.

(b) All billing and administrative data related to the client must be secured to protect confidentiality. Only relevant information may be released for reimbursement purposes as outlined by HIPAA.

(c) Therapist shall document who is present and use appropriate billing codes when treatment requires.

(d) Therapist must ensure online payment methods by clients are secure.

(14) Emergency Management

(a) Marriage and family therapists are required to know the involuntary hospitalization and duty-to-notify laws outlining criteria and detainment conditions. Professionals must know and abide by the rules and laws in the jurisdiction where the therapist is located and where the client is receiving services.

(b) At the onset of the delivery of teletherapy services, therapists shall make reasonable effort to identify and learn how to access relevant and appropriate emergency resources in the client's local area, such as emergency response contacts (e.g., emergency telephone numbers, hospital admissions, local referral resources, a support person in the client's life when available and appropriate consent has been authorized).

(c) Therapists must have clearly delineated emergency procedures and access to current resources in each of their client's respective locations, including in-person services which can offer support; simply offering 911 may not be sufficient. Also, marriage and family therapists make reasonable effort to discuss with and provide all clients with clear written instructions as to what to do in an emergency.

(d) If a client experiences crises/emergencies suggestive that in-person services may be appropriate, therapists shall take reasonable steps to refer a client to a local mental health resource or ensure a referral for in-person services are made including follow-up by the therapists.

(e) Therapists shall prepare a plan to address any lack of appropriate resources, particularly those necessary in an emergency, or other relevant factors which may impact the efficacy and safety of said service. Therapists shall make reasonable effort to discuss with and provide all clients with clear written instructions as to what to do in an emergency (e.g., where there is a suicide risk). As part of emergency planning, therapists must be knowledgeable of the laws and rules of the jurisdiction in which the client resides, as well as document all emergency planning efforts.

(f) In the event of a technology breakdown, causing disruption of the session, the therapists must have a backup plan in place. The plan must be communicated to the client prior to commencement of the treatment and may also be included in the general emergency management protocol.

(15) Synchronous vs. Asynchronous Contact with Client(s)

(a) Communications may be synchronous with multiple parties communicating in real time (e.g., interactive videoconferencing, telephone) or asynchronous (e.g., email, online bulletin boards, storing and forwarding information). Technologies may augment traditional in-person services (e.g.,

psychoeducational materials online after an in-person therapy session), or be used as stand-alone services (e.g., therapy provided over videoconferencing). Different technologies may be used in various combinations and for different purposes during the provision of teletherapy services. The same medium may be used for direct and non-direct services. For example, videoconferencing and telephone, email, and text may also be utilized for direct service while telephone, email, and text may be used for nondirect services (e.g., scheduling). Regardless of the purpose, marriage and family therapists shall be aware of the potential benefits and limitations in their choices of technologies for particular clients in particular situations. Therapists will ensure that all communications are secure and confidential, and that clients know the potential limitations of confidentiality with any mode of communication.

(16) HIPAA Security, Web Maintenance, and Encryption Requirements

(a) Videoconferencing applications must have appropriate verification, confidentiality, and security parameters necessary to be properly utilized for therapeutic purpose.

(b) Video software platforms must not be used when they include social media functions that notify users when anyone in contact list logs on (skype, g-chat).

(c) Capability to create a video chat room must be disabled so others cannot enter at will.

(d) Personal computers used must have up-to-date antivirus software and a personal firewall installed.

(e) All efforts must be taken to make audio and video transmissions secure by using point-to-point encryption that meets recognized standards.

(f) Videoconferencing software shall not allow multiple concurrent sessions to be opened by a single user.

(g) Session logs stored by 3rd party locations must be secure.

(h) Therapists ensure that client data and information is accessible only to appropriate and authorized individuals.

(i) Therapists must encrypt confidential client information for storage or transmission, and utilize secure software and robust passwords to protect electronically stored or transmitted data and information.

(j) When documenting the security measures utilized, therapists shall clearly address what types of telecommunication technologies are used (e.g., email,

telephone, videoconferencing, text), how they are used, whether teletherapy services used are the primary method of contact or augments in-person contact.

(17) Archiving/Backup Systems

(a) Therapists shall retain copies of written communications with clients. Examples of written communications include email/text messages, instant messages, and histories of chat-based discussions.

(b) PHI and other confidential data must be backed up to or stored on secure data storage location.

(c) Therapists must have a plan of the professional retention of records and availability to clients in the event of the therapist's incapacitation or death.

(18) Testing/Assessment

(a) Marriage and family therapists do not provide assessments or testing through videoconferencing or teletherapy, except for exploratory questionnaires (e.g., depressive symptoms, symptom distress, suicidality, relationship satisfaction). Marriage and family therapists refer clients to professionals who can assess, evaluate, and diagnosis in-person.

(19) Telesupervision

(a) Therapists must hold supervision to the same standards as all other technology-assisted services. Telesupervision shall be held to the same standards of appropriate practice as those in in-person settings. All supervision requirements apply to telesupervision.

(b) Before using technology in supervision, s shall be competent in the use of those technologies. Supervisors must take the necessary precautions to protect the confidentiality of all information transmitted through any electronic means and maintain competence.

(c) The type of communications used for telesupervision shall be appropriate for the types of services being supervised, clients and supervisee needs. Telesupervision is provided in compliance with the supervision requirements of the relevant jurisdiction(s). Marriage and family therapists have direct knowledge of all clients served by his or her supervisees.

(d) Supervisors of marriage and family therapy ensure that they are well trained and competent in the use of all chosen technology-assisted professional services. Careful choices of audio, video, and other options are made in order to optimize quality and security of services, and to adhere to standards

of best practices for technology-assisted services. Furthermore, such choices of technology are to be suitably advanced and current so as to serve the professional needs of clients and supervisees.

(e) Supervisors shall: (a) determine that telesupervision is appropriate for supervisees, considering professional, intellectual, emotional, and physical needs; (b) inform supervisees of the potential risks and benefits associated with telesupervision, respectively; (c) ensure the security of their communication medium; and (d) only commence telesupervision after appropriate education, training, or supervised experience using the relevant technology. Supervisees shall be made aware of the risks and responsibilities associated with telesupervision. Supervisors are to advise supervisees in writing of these risks, and of both the supervisor's and supervisee's responsibilities for minimizing such risks.

(f) Supervisors must be aware of statutes and regulations of relevant jurisdictions regarding sexual interactions with current or former supervisees.

(g) Communications may be synchronous or asynchronous. Technologies may augment traditional in-person supervision, or be used as a stand-alone supervision. Supervisors shall be aware of the potential benefits and limitations in their choices of technologies for particular supervisees in particular situations.

(h) Supervisors of marriage and family therapy should not render services using technology-assistance without verifying the location and identifying the requesting supervisees, to the most reasonable extent possible, at the outset of supervision.

(i) Supervisors of marriage and family therapists are discouraged from knowingly engaging in a personal virtual relationship with supervisees (e.g., through social and other media). Supervisors of marriage and family therapists document the rationale for any known virtual relationship with supervisees.

(j) Supervisors of marriage and family therapy should not render services using technology-assistance without verifying the location and identifying the requesting supervisees, to the most reasonable extent possible, at the outset of supervision.

(k) Supervisors of marriage and family therapy document the rationale for any known virtual relationships with supervisees. It is the responsibility of the supervisor to ensure that the virtual relationship is not exploitive.

(l) Supervisors of marriage and family therapists shall not sexually harass supervisees. Sexual harassment includes sexual solicitation, requests for sexual favors, unwanted sexual advances, or physical harassment of a sexual nature.

(m) Supervisors of marriage and family therapists shall not solicit through social media or in videoconferencing sexual favors, participate in online sexual behaviors including sending or receiving sexual pictures, or making sexual advances with a current supervisee.

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