Association of Marital and Family Therapy Regulatory Boards

Teletherapy & Telesupervision Guidelines II

August 2021

AMFTRB
Teletherapy Guidelines

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Overview

In August 2021, due to the impact of the global Covid-19 Pandemic on training for and delivery of teletherapy behavioral health services for Licensed Marriage and Family Therapists (LMFTs), candidates for licensure as LMFTs, and on training programs in MFT, for the use of teletherapy and telesupervison, a review and update of the original guidelines developed by the AMFTRB Teletherapy Committee was conducted. These guidelines are for the consideration and use of AMFTRB member boards as they work on the regulation of the practice of teletherapy and telesupervison by LMFTs.

Key Assumptions of the Teletherapy Committee

I. Public protection must be the overriding principle behind each guideline.

II. Each guideline must be written with special consideration of those uniquely systemic challenges.

III. There are nuances of difference in clinical treatment depending on the delivery of service modality that should be considered.

IV. All state and federal regulations and rules for in person clinical treatment apply for the use of teletherapy practice.

V. A teletherapy standard must not be unnecessarily more restrictive than the respective in person standard for safe practice.

VI. Each guideline must be a recommendation for a minimum standard for safe practice not a best practice recommendation.

VII. The regulation of teletherapy practice is intertwined with the of portability of LMFT licensure across state lines.

The Process

The committee met and reviewed each of the elements of the guidelines due to the major impact of the global pandemic in 2020 and the significant changes stimulated to clinical practice and training. The immediate growth of teletherapy which was necessitated for providing treatment to clients during the pandemic challenged thinking about the efficacy of teletherapy, for what constituted appropriate training for teletherapy practice, and for when it was appropriate for clinicians to begin practice with teletherapy (pre-licensed or fully licensed practitioners). Resources also reviewed were the 2021 Role delineation Study conducted for the MFT National Examination, the April 2021 State Survey on complaints to state boards regarding teletherapy, a review in July 2021 of state websites for current regulations and rules regarding teletherapy and the mobility of licenses, the Commission on Accreditation for Marriage and Family Therapy Education’s (COAMFTE) proposed Version 12.5 training standards for COAMFTE accredited programs, and current research publications on telebehavioral health practice.

Please be advised that the committee did not draft specific guidelines regarding the appropriateness of telemental health and working with domestic violence victims, completing child custody evaluations, treating cyber addiction, or using technology for supervised sanctions as the research in each of these areas was limited. As well, the question remains to be addressed of state board's established rules for a limited number of teletherapy experience hours and of telesupervison hours that are accepted to attain licensure.

Definitions

Asynchronous – Communication is not synchronized or occurring simultaneously (Reimers, 2013)

Electronic communication - Using Web sites, cell phones, e-mail, texting, online social networking, video, or other digital methods and technology to send and receive messages, or to post information so that it can be retrieved by others or used at a later time. (Technology Standards in Social Work Practice, 2017)

HIPAA compliant - The Health Insurance Portability and Accountability Act (HIPAA), sets the standard for protecting sensitive patient data. Any company that deals with protected health information (PHI) must ensure that all the required physical, network, and process security measures are in place and followed. This includes covered entities (CE), anyone who provides treatment, payment and operations in healthcare, and business associates (BA)**,** anyone with access to patient information and provides support in treatment, payment or operations. Subcontractors, or business associates of business associates, must also be in compliance. (What is HIPAA Compliance? 2016; https://www.hhs.gov/hipaa/for-professionals/index.html)

HITECH - Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009 addresses the privacy and security concerns associated with the electronic transmission of health information, in part, through several provisions that strengthen the civil and criminal enforcement of the HIPAA rules (HITECH Act Enforcement of Interim Final Rule, 2016)

Synchronous – Communication which occurs simultaneously in real time (Reimers, 2013)

Telesupervision - Refers to the practice of clinical supervision through synchronous or asynchronous two-way electronic communication including but not limited to telephone, videoconferencing, email, text, and instant messaging, for the purposes of developing trainee marital and family therapists, evaluating supervisee performance, ensuring rigorous legal and ethical standards within the bounds of licensure, and as a means for improving the profession of marital and family therapy.

Teletherapy/Technology-assisted services – refers to the practice of marriage and family therapy of diagnosis, evaluation, consultation, intervention and treatment of behavioral, social, interpersonal disorders through synchronous or asynchronous two-way electronic communication including but not limited to telephone, videoconferencing, email, text, and instant messaging.

Guidelines for the Regulation of Teletherapy Practice

1. Adhering to Laws and Rules in Each Jurisdiction

A. Therapists of one state who are providing marriage and family therapy to clients in another state must comply with the laws and rules of both jurisdictions.
B. 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. Training and Continuing Competency Requirements

A. Therapists must adhere to their jurisdiction's training requirements for teletherapy prior to initiating teletherapy.
B. Therapists must review their discipline's definitions of "competence" prior to initiating teletherapy to assure that they maintain recommended technical and clinical competence for the delivery of care in this manner.
C. Therapists must have completed basic education and training in suicide prevention.
D. Therapists must assume responsibility to continually assess both their professional and technical competence when providing teletherapy services.
E. Therapists must demonstrate competence in a variety of ways (e.g., encryption of data, HIPAA compliant connections). Areas to be covered in training must include, but not be limited to, the following seven competency domains as researched and identified by Maheu, et al (2018) and Hertlein et al (2021):

   Telebehavioral Health Domains:

   1.Clinical Evaluation and Care
   2. Virtual Environment and Telepresence
   3. Technology
   4. Legal & Regulatory Issues
   5. Evidence-Based & Ethical Practice
   6. Mobile Health Technologies Including Applications
   7. Telepractice Development

F. Therapists conducting teletherapy must demonstrate continuing competency each license renewal cycle in their jurisdiction.

3. Diversity, Bias, and Cultural Competency

A. Therapists must be aware of and respect clients from diverse backgrounds and cultures, and have basic clinical competency skills providing treatment with these populations.
B. Therapists must be aware of, recognize, and respect the potential limitations of teletherapy for diverse cultural populations .
C. Therapists must remain aware of their own potential projections, assumptions, and biases.

D. Therapists must select and develop appropriate online methods, skills, and techniques that are attuned to their clients' cultural, bicultural, or marginalized experiences in their environments.
E. Therapists must 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 of members of vulnerable populations.
F. Therapists must be cognizant of the specific issues that may arise with diverse populations when providing teletherapy and make appropriate arrangements to address those concerns (e.g., language or cultural issues; cognitive, physical or sensory skills or impairments; or age may impact assessment).
G. Therapists must recognize that sensory deficits, especially visual and auditory, can affect the ability to interact over a videoconference connection. Therapists must 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.

4. Establishing Consent for Teletherapy Treatment

A. A therapist who engages in teletherapy services must provide the client with their 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 relevant jurisdiction(s). The consent must 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. A clinical treatment relationship is clearly established when informed consent documentation is signed.
C. Therapists must communicate any risks and benefits of the teletherapy services to be offered to the client(s) and document such communication.
D. 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).
E. As appropriate 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.
F. The therapist and/or client must 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.

5. Identity Verification of Client

A. Therapists must recognize the obligations, responsibilities, and client rights associated with establishing and maintaining a therapeutic relationship.
B. The therapist is responsible for assessing and documenting the client's appropriateness for teletherapy treatment.

C. It is the therapist's responsibility to document appropriate verification of the client's identity.
D. The therapist must take reasonable steps to verify the location and identify of the client(s) at the onset of each session before rendering therapy using teletherapy.
E. Therapists must develop written procedures for verifying the identity of clients, their current location, and their appropriateness 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?").

6. Informed Consent

Availability of Professional to Client

A. The therapist must document the provision of informed consent in the record prior to the onset of therapy.
B. In addition to the usual and customary protocol of informed consent between therapist and client for in-person therapy the following issues, unique to the use of teletherapy, technology, and/or social media, must be addressed in the informed consent process:
    a. confidentiality and the limits to confidentiality in electronic communication.
    b. teletherapy training and/or credentials, physical location of practice, and contact information.
    c. licensure qualifications and information on reporting complaints to appropriate licensing bodies.
    d. risks and benefits of engaging in the use of teletherapy, technology, and/or social media.
    e. possibility of technology failure and alternate methods of service delivery.
    f. process by which client information will be documented and stored.
    g. 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.
    h. time zone differences.
    i. cultural and/or language differences that may affect delivery of services.
    j. possible denial of insurance benefits.
    k. social media policy.
    l. specific services provided.
    m. pertinent legal rights and limitations governing practice across state lines or international boundaries, when appropriate; and
    n. Information collected and any passive tracking mechanisms utilized.

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. Local, regional and national laws regarding verbal or written consent must be followed. If written consent is required, electronic signatures may be used if they are allowed in the relevant jurisdiction.
E. Therapists may be offering teletherapy to individuals in different states at any one time, the therapists must meet each jurisdiction's regulations and rules related to informed

consent and document that in the respective record(s). The therapist is responsible for knowing the correct informed consent forms for each applicable jurisdiction.

F. Therapists must provide clients clear mechanisms to:

   a. access, supplement, and amend client-provided personal health information (PHI);
   b. provide feedback regarding the site and the quality of information and services; and

register complaints, including information regarding filing a complaint with the applicable state licensing board(s).

Working with Children

A. Therapists must determine if a client is a minor and, therefore, in need of parental/guardian consent. Before providing teletherapy 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 must 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:
   (a) determine that teletherapy is appropriate for clients, considering clinical, relational, cultural, cognitive, intellectual, emotional, and physical needs
   (b) inform clients of the potential risks and benefits associated with teletherapy
   (c) ensure the security of the therapist's communication medium
   (d) only commence teletherapy after appropriate education, training, or supervised experience using the relevant technology

B. Therapists are to advise clients in writing of the risks and of both the therapist's and clients' responsibilities for minimizing such risks.

C. Therapists must consider nonverbal and verbal communication cues and how these may affect the teletherapy process. Therapists must 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 must recognize the members of the same family system may have different levels of competence and preference using technology. Therapists must acknowledge power dynamics when there are differing levels of technological competence within a family system.

E. Before therapists engage in providing teletherapy services, they must conduct an initial assessment to determine the appropriateness of the client(s) for teletherapy service. An assessment should include 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 service delivery.

F. It is incumbent on the therapist to engage in a continual assessment of the client's appropriateness for teletherapy services throughout the duration of treatment.

8. Confidentiality of Communication

A. Therapists utilizing teletherapy must meet or exceed applicable federal and state legal requirements of health information privacy including HIPAA (https://www.hhs.gov/hipaa/for-professionals/privacy/index.html) and HITECH (https://www.hhs.gov/hipaa/for-professionals/special-topics/hitech-act-enforcement-interim-final-rule/index.html) (https://www.hipaajournal.com/new-hipaa-regulations/).
B. Therapists must assess the remote environment in which services will be provided, to determine what impact 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 treatment. The client and therapist must discuss whether the provider will be available for contact between sessions and the conditions under which such contact is appropriate. The therapist must provide a specific time frame for expected response to a between session contact. This must also include a discussion of emergency, crisis management between sessions.
B. To facilitate the secure provision of information, therapists must provide in writing the appropriate ways to contact them.
C. Therapists are discouraged from knowingly engaging in a personal virtual relationship with clients (e.g., through social and other media). Therapists must document any known virtual relationships with clients/associated with clients.
D. Therapists must discuss, document, and establish professional boundaries with clients regarding the appropriate use and/or application of technology and the limitations of its use within the therapy relationship (e.g., lack of confidentiality, circumstances when not appropriate to use).
E. Therapists must be aware that personal information they disclose through electronic means may be broadly accessible in the public domain and may affect the therapeutic relationship.
F. Virtual sexual interactions are prohibited.
G. 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.

10. Impact of Social Media and Virtual Presence on Teletherapy

A. Therapists must develop written procedures for the use of social media and other related digital technology with clients that 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. Therapists separate professional and personal web pages and profiles for social media use to clearly distinguish between the two kinds of virtual presence.
C. Therapists who use social networking sites for both professional and personal purposes must review and educate themselves about the potential risks to privacy and confidentiality and consider utilizing all available privacy settings to reduce these risks.
D. Therapists must respect the privacy of their clients' presence on social media unless given consent to view such information.
E. Therapists must avoid the use of public social media sources (e.g., tweets, blogs, etc.) to provide confidential information.
F. Therapists must refrain from referring to clients generally or specifically on social media.
G. Therapists who engage in online blogging must be aware of the effect of a client's knowledge of their blog information on the therapeutic relationship, and place the client's interests as paramount.

11. Documentation/Record Keeping

A. All client-related electronic communications, must be stored and filed in the client's record, consistent with standard record-keeping policies and procedures.
B. Written policies and procedures for teletherapy must be maintained at the same standard as in-person services for documentation, maintenance, and transmission of records.
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. If therapists are storing video or audio recorded data from sessions, these cannot be released unless the client authorization indicates specifically that this is to be released.
E. Therapists must maintain policies and procedures for the secure destruction of data and information and the technologies used to create, store, and transmit data and information.
F. Therapists must inform clients on how records 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.
G. Clients must be informed in writing of the limitations and protections offered by the therapist's technology.
H. The therapist must obtain written permission prior to recording any part of the teletherapy session. The therapist must request that the client(s) obtain written permission from the therapist prior to recording the teletherapy session.

12. Payment and Billing Procedures

A. Prior to initiating teletherapy, the client must be informed of any and all financial charges that may arise from the services to be provided. Payment arrangements must be established prior to beginning teletherapy.
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 must document who is present and use appropriate billing codes.
D. Therapist must ensure online payment methods by clients are secure.

13. Emergency Management

A. Each jurisdiction has its own 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 must 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; simply offering 911 may not be sufficient.
D. If a client repeatedly experiences crises emergencies the therapist must reassess the client's appropriateness for teletherapy and if in-person treatment may be more appropriate. The therapists must take reasonable steps to refer a client to a local mental health resource or begin providing in-person services.
E. Therapists must prepare a plan to address any lack of appropriate resources, particularly those necessary in an emergency, and other relevant factors which may impact the efficacy and safety of teletherapy service. Therapists must 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).
F. Therapists must be knowledgeable of the laws and rules of the jurisdiction in which the client resides and the differences from those in the therapist's jurisdiction, as well as document all their emergency planning efforts.
G. In the event of a technology breakdown, causing disruption of the session, the therapist must have a backup plan in place. The plan must be communicated to the client prior to commencement of treatment and may also be included in the general emergency management protocol.

14. 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).
B. 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.
C. 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 non- direct services (e.g. scheduling).
D. Regardless of the purpose, therapists must be aware of the potential benefits and limitations in their choices of technologies for particular clients in particular situations.

15. HIPAA Security, Web Maintenance, and Encryption Requirements

A. Videoconferencing applications must have appropriate verification, confidentiality, and security parameters necessary to be properly utilized for this 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 transmission secure by using point-to- point encryption that meets recognized standards.
F. Videoconferencing software must 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 must conduct analysis of the risks to their practice setting, telecommunication technologies, and administrative staff, to 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 such other secure methods as safe hardware and software and robust passwords to protect electronically stored or transmitted data and information.
J. When documenting the security measures utilized, therapists must 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.

16. Archiving/Backup Systems

A. Therapists must retain copies of all written communications with clients. Examples of written communications include email/text messages, instant messages, and histories of chat-based discussions even if they are related to housekeeping issues such as change of contact information or scheduling appointments.
B. PHI and other confidential data must be backed up to or stored on secure data storage location.
C. Therapists must have a plan for the professional retention of records and availability to clients in the event of the therapist's incapacitation or death.

17. Standardized & Non-standardized Testing for Assessment

A. Therapists must familiarize themselves with the tests' psychometric properties, construction, and norms in accordance with current research. Potential limitations of conclusions and recommendations that can be made from online assessment procedures should be clarified with the client prior to administering online assessments.
B. Therapists must consider the unique issues that may arise with test instruments and assessment approaches designed for in-person implementation when providing services.
C. Therapists must maintain the integrity of the application of the testing and assessment process and procedures when using telecommunication technologies. When a test is conducted via teletherapy, therapists must ensure that the integrity of the psychometric properties of the test or assessment procedure (e.g., reliability and validity) and the conditions of administration indicated in the test manual are preserved when adapted for use with such technologies.
D. Therapists must be cognizant of the specific issues that may arise with diverse populations when administering assessment measures and make appropriate arrangements to address those concerns (e.g., language or cultural issues; cognitive, physical or sensory skills or impairments; or age may impact assessment). In addition, therapists must consider the use of a trained assistant (e.g., proctor) to be on premise at the remote location in an effort to help verify the identity of the client(s), provide needed on-site support to administer certain tests or subtests, and protect the security of the testing and/or assessment process.
E. Therapists must use test norms derived from telecommunication technologies administration if such are available. Therapists must recognize the potential limitations of all assessment processes conducted via teletherapy, and be ready to address the limitations and potential impact of those procedures.

F. Therapists must be aware of the potential for unsupervised online testing which may compromise the standardization of administration procedures and take steps to minimize the associated risks. When data are collected online, security should be protected by the provision of usernames and passwords. Therapists must inform their clients of how test data will be stored (e.g., electronic database that is backed up). Regarding data storage, ideally secure test environments use a three-tier server model consisting of an internet server, a test application server, and a database server. Therapists should confirm with the test publisher that the testing site is secure and that it cannot be entered without authorization.
G. Therapists must be aware of the limitations of “blind” test interpretation, that is, interpretation of tests in isolation without supporting assessment data and the benefit of observing the test taker. These limitations include not having the opportunity to make clinical observations of the test taker (e.g., test anxiety, distractibility, or potentially limiting factors such as language, disability etc.) or to conduct other assessments that may be required to support the test results (e.g., interview).

18. Telesupervision

A. Therapists must hold supervision to the same standards as all other technology-assisted services. Telesupervision must be held to the same standards of appropriate practice as those in in-person settings.
B. Before using technology in telesupervison, supervisors must be competent in the use of those technologies.
C. Supervisors must take the necessary precautions to protect the confidentiality of all information transmitted through any electronic means and maintain competence.
D. The type of communications used for telesupervision must be appropriate for the types of services being supervised, the clients and the supervisee needs.
E. Telesupervision is provided in compliance with the supervision requirements of the relevant jurisdiction(s). Supervisors must review state board requirements specifically regarding face-to-face contact with supervisee as well as the need for having direct knowledge of all clients served by their supervisee.
F. Supervisors must:
G. (a) determine that telesupervision is appropriate for supervisees, considering professional, cognitive, cultural, intellectual, emotional, and physical needs
H. (b) inform supervisees in writing of the potential risks and benefits associated with telesupervision and of both the supervisor’s and supervisees' responsibilities for minimizing such risks.
I. (c) ensure the security of their communication medium
J. (d) only commence telesupervision after appropriate education, training, or supervised experience using the relevant technology.
K. Supervisors must be aware of statutes and regulations of relevant jurisdictions regarding sexual interactions with current or former supervisees.
L. Communications may be synchronous or asynchronous. Technologies may augment traditional in-person supervision, or be used as stand-alone supervision. Supervisors must

be aware of the potential benefits and limitations in their choices of technologies for particular supervisees in particular situations.

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