

Legal Update Article

New York Expands Telemedicine Regulations

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Related Services

Healthcare

The authorized use of telehealth to deliver mental health services to New Yorkers has been expanded by amendments to the state Office of Mental Health's (OMH) Telemental Health Services regulations increasing the types of professionals who may provide care and the places where care recipients can be treated.

The New York OMH's Telemental Health Services program aims to improve the availability of mental health services by allowing recipients to receive services virtually at a location distant from the treating practitioner, where such services may not be readily accessible because of distance, location, time, or inadequate resources.

Under the amended regulations, in addition to physicians and nurse practitioners, "Telemental Health Practitioners" eligible to provide Telemental Health Services include the following:

- Psychologists
- Licensed social workers
- Mental health counselors
- Marriage and family therapists
- Creative arts therapists
- Psychoanalysts

Telemental Health Practitioners must receive written approval from the OMH, after submitting a written plan, before providing Telemental Health Services to recipients of facilities licensed under state law (Article 31 of the Mental Hygiene Law).

To expand access to care, the amended regulations eliminated the requirement that Telemental Health Practitioners be physically located at a site that participates in Medicaid. Practitioners may deliver Telemental Health Services from anywhere in the state, while prescribers of Telemental Health Services (*i.e.*, nurse practitioners in psychiatry and psychiatrists) need only be located within the United States.

The eligible places where care recipients can receive Telemental Health Services was expanded to include the recipient's place of residence, or at a temporary location within or outside the State of New York, as well as sites licensed by the OMH.

The amended regulations also expanded the settings in which Telemental Health Services can be provided to recipients. Services may be provided within Assertive Community Treatment teams and Personalized Recovery-Oriented Service programs by psychiatrists and nurse practitioners in psychiatry. Telemental Health Services will be authorized by the OMH for a period not to exceed one year if the treatment teams and service programs can demonstrate a shortage of psychiatrists and nurse practitioners in psychiatry. If a continued shortage after the initial one-year period can be demonstrated, an extension not to exceed one additional year may be given.

These amended regulations will have a significant impact for individuals who receive services through an Article 31 facility, expanding access to mental health services for New Yorkers and medical reimbursement for the Telemental Health Practitioners.

Please contact a Jackson Lewis attorney with any questions.

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