



WHITE PAPER

# Managing Continuity of Care During Winter Break Amid the Pandemic

Mantra Health

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# Background

## The Authors



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## The Problem

College and university protocols for managing the continuity of mental health care services provided to students, particularly during semester and summer breaks from classes, have been long established and followed by campus counseling centers and their clinicians. However, understanding how these protocols translate to the world of telehealth, particularly during the current COVID-19 public health pandemic, introduces a plethora of novel nuances.

The COVID-19 pandemic has created unique operational challenges to securing and ensuring students' access to needed mental health services. These challenges include longer than usual breaks from classes, as well as regulatory considerations related to providing mental health services across state lines while still balancing the duty of care. Additionally, because many colleges and universities are closing campuses two to four weeks earlier than usual, many students who have already paid fees, but who may be out of state indefinitely, will experience a meaningful loss of school-sponsored resources on which they have come to rely.

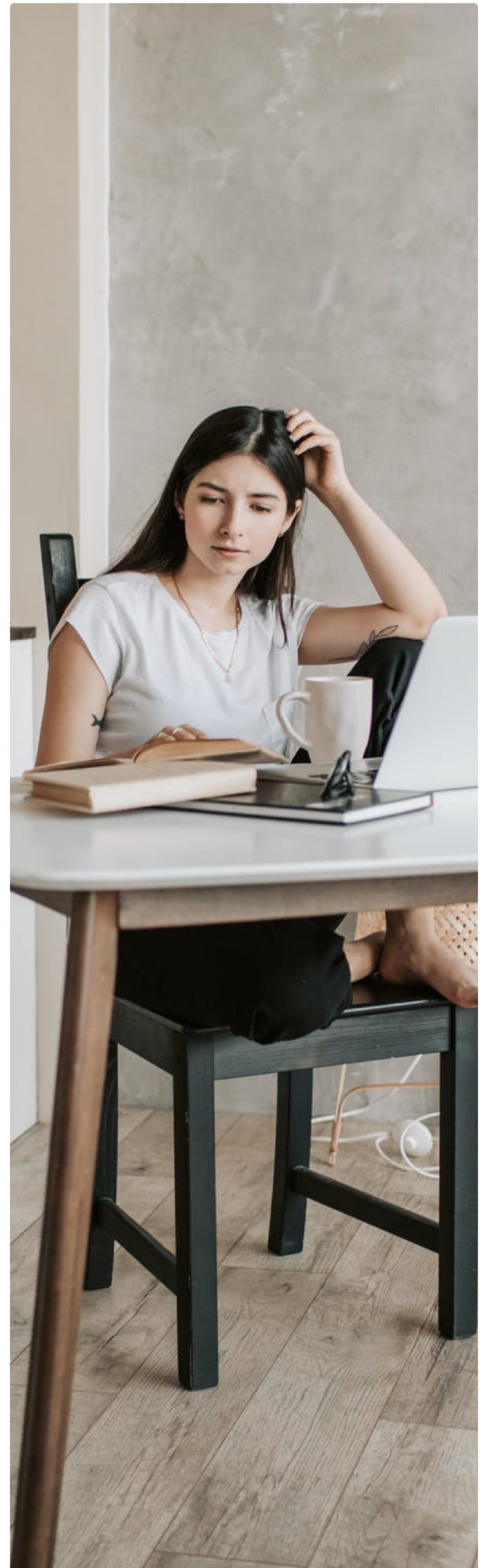


## Operational Considerations for Supporting Continuity of Care

Colleges and universities must strike a balance between operational, regulatory, and clinical compliance considerations, particularly so that student-patients in need of treatment are assured access to care and are not abandoned mid treatment. With each state having its own set of rules, focused not only on the provision of telehealth services but on each individual type of licensed professional who provides such services, it is important to consider the laws and other state guidance regarding the practice of telehealth in your own practicing state, as well as the respective home state(s) in which student-patients reside. To achieve operational efficiency, schools may consider identifying the top three to five states where students reside during breaks and investigating the telehealth laws in each of those priority states. Further, while the regulatory framework for providers who utilize telehealth is oriented towards the state(s) in which the patient is located, understanding the laws in which the provider is located is recommended to align with state laws that govern non-telehealth rules (e.g., provider is licensed in New York but lives across the border in New Jersey).

Epstein Becker & Green, P.C. (EBG), a national law firm with expertise in healthcare and life sciences, has developed an easy-to-use app that allows users to research and review the telehealth laws unique to each state for various types of licensed providers of behavioral health services. EBG recently released new content in the app, including updates that reflect changes and modifications put into place by states in response to COVID-19.<sup>1</sup>

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# Practicing Across State Lines

Colleges and universities must strike a balance between operational, regulatory, and clinical compliance. Generally, all states require physicians and other healthcare professionals to hold a valid license to practice, issued by the state's relevant professional board. In response to COVID-19, most states issued executive orders or emergency declarations calling for greater use of telehealth, but took different approaches to licensure questions. Some have waived requirements to get licenses entirely and others have merely eased them. States have also taken different approaches to whether these changes apply only to providing COVID-19-related services or can apply to health care services more generally. Some states also are considering more permanent amendments to their telehealth regulations in order to keep certain emergency rules enacted due to COVID-19, more permanently.<sup>2</sup> An example is Idaho, where new permanent rules pertaining to the provision of telehealth services will go into effect as of January 2021.<sup>3</sup>

In early August 2020, Senators Chris Murphy (D-Conn.) and Roy Blunt (R-Mo.) introduced the Temporary Reciprocity to Ensure Access to Treatment (TREAT) Act (S.4421).<sup>4</sup> If enacted the TREAT Act would permit "temporary licensure reciprocity in all states for any health care practitioner or professional in good standing with a valid practitioners' license to render services, mental health practitioners included." The TREAT Act covers the provision of "telehealth" services, defined as the "use of telecommunications and information technology (including synchronous or asynchronous audio-visual, audio-only, or store and forward technology) to provide access to physical and mental health assessment, diagnosis, treatment, intervention, consultation, supervision, and information across distance". The provisions of the TREAT Act would remain in effect during the course of the pandemic, with a 180-day phase-out period. Importantly, the TREAT Act would not apply to students residing outside the United States, so even if enacted, alternate arrangements would need to be made regardless for students to continue care while residing in the country to which they are returning.

## What Does the TREAT Act Mean for Campus Counseling Centers?

The TREAT Act is currently under review by the Senate as proposed legislation and, therefore, is not current law. Higher education settings should continue to follow relevant professional licensure requirements for each state in which student-patients are residing and, if possible, can consider securing temporary licenses to practice that, depending on the state, can cover the time spent by students away from campus during break.

However, if enacted, and given that the provisions of the TREAT Act would remain in effect for the duration of the pandemic, plus a 180-day period post-pandemic, campus counseling centers that would commit to providing ongoing mental health treatment (including diagnostic evaluation and treatment intervention) during periods of time when campuses are closed would be able to do so without needing to ensure that treating providers have and maintain active licenses in the respective home state(s) where the student-patient population resides.

Furthermore, when the current pandemic period ends, a decision that while driven by the federal government ultimately will be made by individual states and their Governors in state-specific orders and/or proclamations, the 180-day phase-out period would provide campus counseling centers with ample time to secure needed licenses, and/or to ensure that student-patients are referred to care with a local provider (if continued care is needed).



# Managing Levels of Risk During School Breaks

The TREAT Act permits cross-state practice of telehealth services, but limits the use of telehealth to those activities that are specifically outlined in the Act. The Act's definition of "synchronous or asynchronous audio-visual, audio-only, or store and forward technology" includes:

- Audio-video appointments
- Telephone appointments without video
- Store and forward: Store and forward is defined as "asynchronous electronic transmission of medical information, such as digital images, documents, and pre-recorded videos through secure email communication."<sup>5</sup>

Depending on the standards established by a state, it may be acceptable for a licensed provider to offer care management support through asynchronous modalities, such as messaging. Also, certain telehealth vendors can support multi-state coverage, which is a service that Mantra Health currently supports with select college and university partners, both during scheduled semester breaks (e.g., winter holidays) and for the duration of the Spring 2021 semester for students who chose not to return to the state the school is located in.

## Managing Levels of Risk During School Breaks

Depending on the availability of school resources, internal risk stratification protocols can be integrated into a campus counseling center's telehealth practices. For example with medication management, if a student is utilizing the services of a psychiatrist and is stabilized on his/her medication, the student can be offered a 60-90 day prescription despite receiving their ongoing counseling services across state lines. By contrast, if the student is not stabilized on medication, he/she needs to be prioritized for video appointments (if available) or referred to a local provider when the campus counseling center is closed for in-person treatment during school breaks. For those campus counseling centers that are closed during school breaks, these centers may want to consider partnering with a 24/7 emergency service that students can utilize, if they have not already done so, in order to provide coverage for acute cases.

Campus counseling centers and their providers must be mindful of state laws relating to the prescribing of both non-controlled and controlled substances, which vary by state, as well as federal standards regarding the remote prescribing of controlled substances. A growing number of states have evolved to allow what once was an in-person examination for non-controlled substances to proceed via telehealth instead. While states have long deferred to the federal Controlled Substance Act ("CSA") as far as remote prescription of controlled substances, in response to COVID-19 the federal Drug Enforcement Administration ("DEA") invoked a public health emergency exception to the CSA to allow for the remote prescribing of controlled substances under certain conditions. The DEA has temporarily waived its usual requirements for as long as HHS Secretary Alex Azar's January 27, 2020 designation of a public health emergency remains in effect.



# What Should Campus Counseling Centers Be Thinking About Regarding the Treatment of Students Who Are Under 18 Years of Age?

Each state has different definitions for what age groups are considered “minors” with respect to health care services generally, and sometimes specifically with respect to mental health services. Campus counseling centers must understand the laws of the state(s) in which their student population resides. For example, if a clinician based in Pennsylvania is treating a 17 year old student under laws that define the legal age to receive mental health treatment without parental / legal guardian consent as 14 years or older<sup>6</sup>, and the clinician continues to treat that same student-patient who, after moving home, now resides in New York where the legal age is 18 years or older, a protocol must be in place to obtain proper consent from the student’s parent or legal guardian that aligns with New York law<sup>7</sup>. Further, for some states, general consent to treatment will be sufficient but in other states it will be necessary for the campus counseling center to obtain consent that is specific to receiving services via telehealth, which may require additional language to be added to the standard consent form in order to cover the scope of the services being provided. We recommend having your legal counsel review your current consent form, and making adjustments as needed, so that the consent covers provision of services via telehealth as well as a broad scope of laws for states in which minor students may be located when receiving care.

There will be significant uncertainty over the next several months about how to bring students back to campuses safely for the Spring 2021 semester and to ensure access to mental health services regardless of where students may be located (whether on or off campus). Similar to the Fall 2020 semester, higher education institutions must be nimble and navigate one of the multiple potential trajectories stemming from the current pandemic. Fortunately, much of the infrastructure has been put in place based on the knowledge learned from the 2020 academic year. To ensure continued safe and legal clinical practices, counseling centers and their clinicians should regularly consult telehealth laws and other guidance in all priority states.



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# About Mantra Health for Higher Education

Mantra's Higher Ed program allows you to provide excellent, evidence-based mental healthcare on campus in just a few weeks.

We staff Board-Certified Psychiatry or Therapy providers who work as an extension to your existing services. Your team leverages our Mantra Collaboration Portal to coordinate and collaborate in the care of your students.

**Ready to enhance care on your campus?**  
**We'd love to speak to you.**

partner@mantrahealth.com

(800) 464-2083

www.mantrahealth.com

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## References

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- 6 35 PA. STAT. ANN. § 10101.1.
- 7 14 N.Y. COMP. CODES R. § 596.6.