



# Trends in Coverage of Telebehavioral Health: How Can the Modality Be a Successful Vehicle for Substance Use Disorder Treatment?

Substance Use Disorders Crash Course

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# Presented by

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# Substance Use Disorder Treatment



## Why is telebehavioral health suited as modality for substance use disorder treatment?

- Telehealth was once viewed as vehicle to address provider shortages and distance/time access barriers in rural areas.
- In the last decade, telehealth modalities, including video conferencing, computer and smart phone two-way video and audio access and mobile health monitoring applications have expanded provider access and patient convenience in urban settings as well.
- In 2011, less than 1% of substance use disorder/addiction treatment providers were using telemedicine [1]

[1] Molfenter T, Capoccia VA, Boyle MG, Sherbeck CK. The readiness of addiction treatment agencies for health care reform. Subst Abuse Treat Prev Policy. 2012;7:16

# Substance Use Disorder Treatment



- In recent years, telebehavioral health has been recognized by more state medical boards and state legislature and federal programs as an acceptable modality of treatment within the scope of provider licensure and has rapidly gained traction with health plan coverage.
- “Telebehavioral health,” “telemental health” and “telepsych” all support clinical psychiatric and psychological care at a distance using real-time, 2-way, interactive audio-visual transmissions, such as through secure video conferencing and computer and mobile smart phone audio-visual applications

# Substance Use Disorder Treatment



- Telebehavioral health is particularly suited to substance use disorder treatment:
  - Reduces barriers of limited recourses and access to behavioral health providers.
    - Behavioral health providers (LCSW, psychologists, counselors) are inconsistently distributed across the country and the psychiatrist population is an older, aging population
  - Eliminates time and distance barriers to treatment in conventional office locations – travel time and following up treatment adherence
  - Reduces social stigma barriers to seeking treatment and follow-up at brick and mortar clinics, outpatient centers and similar office locations
  - Provides unique **crisis care and availability of behavioral health providers when they can be most needed by patients with substance use disorders; i.e. outside of the conventional treatment setting where patients are making real-time decisions regarding their sobriety.**

# Substance Use Disorder Treatment



- A myriad of mobile health applications can be employed to assist with real-time “check –ins” and compliance with treatment plans.
- By reducing barriers, and promoting convenient treatment adherence opportunities, telebehavioral health services have advanced improvements in patients with substance use disorders:
  - Timely and convenient provider access for patients
  - Expanded provider staff time and capacity to treat
  - Patient compliance with treatment plans
  - Cost efficiencies
  - Health outcomes
  - Patient satisfaction

# SAMHSA STAR-SI



- Substance Abuse and Mental Health Services Administration’s (SAMHSA) Strengthening Treatment Access and Retention State Initiative (STAR-SI) developed a technical assistance program for states interested in using telebehavioral health and telehealth technical application for addiction treatment.
- Four states and one county in California participated
  - Using 2013-2014 data, the participating states and county found telebehavioral health and technology enabled resources and applications for real-time compliance and “check in” monitoring to be effective tools in improving health outcomes and adherence to treatment plans.

# Requirements for State Licensure and Services



- **Licensure: Location and Scope of Practice**
- Licensure-Location of Services: Professional licensure required of provider in the state where patient is located/residing/receiving the services.
- Telemedicine/Telebehavioral health care is typically treated as a modality of service, within the providers scope of licensure.
- Florida, offers a certification program for counselors/LCSW and therapists who provide treatment using distance technologies: Certified E-Therapists. Florida's Certification Board selected the Online Therapy Institutes' training program.

# Requirements for State Licensure and Services



- **In-Person Visit or Referral:** Many State Medical Boards and state legislature require that an in-person visit, exam or consultation take place prior to initiating telebehavioral health services.
  - In some states the in-person, visit/exam can be performed by the telebehavioral health provider/prescribing provider.
  - In other states where such in-person exam is required, it need only be conducted by a licensed provider in the state, who may then refer the patient to telebehavioral health services.
  - SAMASHA endorses or advocates for collaborative care arrangements.
- **Telehealth/Telebehavioral Health Services:** Most states recognize or define telehealth/telebehavioral health for state health care coverage eligibility as 2–way, real-time interactive audio-visual communications, such as secure video conferencing and computer and mobile/smart phone face-to face applications.
- Generally, email and telephone conversations without a visual feed and text conversations are not acceptable, billable forms of telebehavioral health services.

# Requirements for State Licensure and Services



- **Remote prescribing:** Many states limit the ability of telehealth/telebehavioral health providers to prescribe remotely, particularly with controlled substances. Some states require that an in-person exam take place prior to any remote prescribing via telemedicine—on line prescriptions—whether the in-person exam be conducted by the prescribing provider or a state-licensed provider who then refers to the remotely located, licensed telebehavioral health provider.
  - See [Ryan Haight Act Online Pharmacy Consumer Protection Act](#) (Public Law 110-425 in 2008) designed to address the illegal sale, abuse and trafficking of controlled prescription drugs/ opioids over the Internet by “rogue” on-line only pharmacies. The Act exempts remote-site pharmacies that operate under approved telemedicine procedures and prescribing practitioners legitimately using telemedicine (under 21 USC 802(54)) and rules of Department of Justice under the Drug Enforcement Administration.
  - A number of states have enacted legislation to strengthen or further define the Act’s exceptions for telemedicine prescribing in their state.

# State Revisions & Reversals



- Recent state revisions/reversals of telehealth laws, expanding prescription access:
  - Effective July 1, 2017, **Indiana** reversed provisions from its 2016 telehealth law and will allow providers to prescribe via telemedicine without an in-person examination by the prescribing provider. Controlled substance prescriptions are limited and may not be for an opioid, unless the opioid is a partial antagonist that is used to treat or manage opioid dependence.
    - State still requires an in-person exam conducted by an Indiana licensed health care provider, but not necessarily by the prescriber.
  - **Michigan**, recently enacted a law reversing its prior ban and allows health professionals to prescribe controlled substances via telemedicine without an in-person examination.
  - **Texas**, as well, in May of 2017 enacted bill no longer requiring an initial, in-person visit or exam before providing telehealth services.

# State Revisions & Reversals



- Other States have enacted legislation expanding services and removing barriers to access to necessary substance use disorder/addiction treatment, regardless of the mode of treatment.
  - New York State recently implemented changes to chapters 69 and 71 of the laws of 2016, establishing the New York State OASAS LOCADTR 3.0 criteria for Medically Necessary in-patient treatment of substance use disorders, including detoxification, rehabilitation and residential treatment. Plans may not conduct concurrent utilization review for the first fourteen (14) days of treatment, provided the Provider inpatient or residential facility provides notice to Plans within 48 hours of the covered patient's admission and the initial treatment plan.
  - Collaborative care arrangements among licensed in state and remotely practicing providers through telemedicine in primary care and specialty behavioral health care are encouraged by SAMSHA.

# 50 State Survey of Telehealth/Telebehavioral Health



- Epstein Becker Green's Comprehensive 50 State Survey of Telehealth/Telebehavioral Health laws, regulations, and regulatory policies is a tool detailing telemedicine considerations for each state.
  - The survey is available at the following link, on a complementarity basis to participations in this crash course and friends of the firm.  
[Download Your Complimentary Copy](#)
- To learn more about Epstein Becker Green's Telemental/Telebehavioral Health practice, [please click here](#).

# Telehealth and Mental Health Parity



- Telemedicine Benefit for Substance Use Disorder (“SUD”) treatment coverage and reimbursement under Mental Health Parity.
- Key laws currently governing coverage and treatment for SUD services:
  - Essential Health Benefits under ACA: services for SUD (including treatment for opioid addiction) are required to be covered along with mental health benefits
  - Medicaid Expansion under ACA: 30% of adults with opioid addiction have coverage under Medicaid. Expansion coverage must include SUD benefits and beneficiaries with SUD are considered “medically frail” and are entitled to additional protections
  - Patient Protection and Affordable Care Act of 2010 (“ACA”), extended MHPAEA requirements to individual and small group plans.

# Telehealth and Mental Health Parity



- Federal parity law (MHPAEA): generally requires that limits on mental health/SUD benefits offered by private insurers be no more restrictive than those applied to medical benefits. Parity rules apply to Medicaid including managed care plans with compliance required by this coming October.
- Financial Requirements (such as copays, deductibles) and Quantitative Treatment Limitations (such as day, hour, or visit limits) applied to mental health/substance use disorder (MH/SUD) benefits must be no more restrictive than the predominant level of those applied to substantially all medical/surgical (M/S) benefits

# Questions?

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# Upcoming Webinars

## Telehealth & Telemedicine Crash Course Series

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- **How Should My Telehealth Business Be Structured?**

Tuesday, July 11 at 2:00 – 2:15 p.m. ET

Presenter: Bradley S. Davidsen

- **What Are My Risks as a Telehealth Provider?**

Tuesday, July 18 at 2:00 – 2:15 p.m. ET

Presenter: Francesca R. Ozinal

- **Can I Prescribe to Patients via Telehealth?**

Tuesday, July 25 at 2:00 – 2:15 p.m. ET

Presenter: Theresa E. Thompson

To register, please visit: <http://www.ebglaw.com/events/>

**Thank you.**