NEW YORK STATE | Office of Mental Health

Telehealth Regulatory Refresher

Anna Kane, LCSW, Bureau of Inspection and Certification, Licensing Unit

DECEMBER 10, 2025

Introduction

The purpose of this training is to provide a refresher of applicable Telehealth regulations, standards of care, and implementation guidance to providers licensed pursuant to Article 31 of New York State (NYS) Mental Hygiene Law, as well as providers designated or otherwise authorized by the NYS Office of Mental Health (OMH) to provide services that are approved to utilize telehealth pursuant to Part 596.

Introduction

OMH supports service delivery via telehealth to:

- Improve and increase access to care and reduce barriers to participation
- Expand individualized service delivery options to prioritize person-centered care and recognize voice and choice
- Increase capacity and flexibility for family and network-oriented treatment approaches
- Facilitate continuity of care in response to a clinical need or circumstance that would otherwise result in an interruption in program or service participation
- Promote opportunity for planned interventions in settings, situations or activities that are particularly challenging
- Increase real time responsiveness to help decrease the utilization of crisis and emergency interventions

Telehealth Timeline

Telehealth Timeline

- In 2015, the Office of Mental Health (OMH) introduced 14 NYCRR Part 596, which established a formal set of standards for using “telepsychiatry.”
- In 2016, OMH expanded the regulation to allow the use of telepsychiatry beyond licensed MHL Article 31 mental health clinic settings.
- In 2019, OMH regulation amendment allowed for more providers to deliver services, for the expansion of “distant” and “originating” site locations, and to increase the number of eligible programs.
- In 2022, further expansion of the regulation allowed for the use of audio-only, strengthened language around consent and recipient preference, removed the requirement of an in-person initial assessment, expanded the definition of a telehealth practitioner, and allowed the ability for all telehealth practitioners to deliver services from outside of NYS.

Part 596 Telehealth Regulations

Part 596.6(b): Protocols and Procedures

For approval to provide services via telehealth, the provider **must** have written protocols and procedures that address **all** the below areas:

- Evaluation of the recipient to determine whether the telehealth modality is appropriate, given the recipient's treatment needs.
- **Informed Consent**
- Confidentiality
- Assurance telehealth services are conducted via telehealth technologies that meet minimum federal and state requirements
- The availability of in-person assessments in an emergency
- Related to prescribing medications via telehealth that are in accordance with applicable NYS and federal law (e.g., federal Ryan Haight Act)
- **Recipient Rights**
- Quality of care
- A contingency plan for when there are technical difficulties that render the service undeliverable
- Ownership and Maintenance of Records

Recipient Rights and Informed Consent with regards to service delivery via Telehealth

	Recipient Rights	Informed Consent
Scope	Broad set of legal and ethical guarantees in a service setting.	Specific process and agreement for a particular treatment, procedure, or information release.
Nature	Ongoing entitlements during the course of receiving services.	A foundational requirement for specific actions, ensuring a recipient's autonomy in decision-making.
Function	To protect the individual's overall well-being, dignity, and autonomy.	To ensure a specific decision is made knowingly and willingly based on full information.

Part 596 requirements for Informed Consent:

- The recipient must be provided with basic information about telehealth services, including both benefits and risks.
- Recipients, or a minor recipient's parent or guardian, shall be informed how to verify a telehealth practitioner's license.
- The recipient understands they have the right to refuse to participate in telehealth services, in which case services must be conducted in-person by appropriate clinicians.
- Telehealth sessions shall not be recorded without the recipient's consent, which shall be documented in the clinical record.

Part 596 requirements for Recipient Rights:

That each individual receiving telehealth services:

- Is informed and made aware of the role and license information of the TH practitioner at the distant/hub site, as well as the originating/spoke site, who are responsible for follow-up or ongoing care
- Is informed and made aware of the location of the distant/hub site and all questions regarding the equipment, the technology, etc., are addressed
- Has the right to be informed of all parties who will be present at each end of the telehealth transmission
- If the recipient is a minor, the recipient and their parent or guardian shall be given the opportunity to provide input regarding who will be in the room with the recipient when telehealth services are provided

Telehealth Standards of Care

Effective 5/12/23

Most frequently cited (data collected October 2025)

Most frequently cited telehealth standards of care (SOC) for Single Program Monitoring Outcome Reports (MORs) and Agency Wide MORs:

Single Program MORs

Standard of care	# of Citations
TH SOC 1.1	42
TH SOC 2.1	17
TH SOC 8.1	14
TH SOC 3.1	13
TH SOC 5.1	13
TH SOC 4.1	9
Total	108

Agency Wide MORs

Standard of care	# of Citations
TH SOC 1.1	58
TH SOC 5.1	35
TH SOC 2.1	28
TH SOC 4.1	18
TH SOC 3.1	15
TH SOC 8.1	12
TH SOC 12.1	2
TH SOC 7.1	1
Total	169

TH SOC 1.1: Assessment for Appropriateness to Receive Services via Telehealth

TH SOC 1.1: Core compliance

- Every individual has been assessed for appropriateness for services via telehealth in accordance with applicable guidelines, and prior to or concurrent with the first telehealth appointment.
- Individuals are re-assessed for ongoing appropriateness for services via telehealth:
  - In accordance with guidelines
  - Continually to determine if service delivery modality remains appropriate, effective, and aligns with the individual's (and as applicable, family member's) assessed treatment needs and preference(s)
  - Following a clinically significant event, including but not limited to hospitalization or ED/CPEP visit
- Assessments for appropriateness of telehealth are documented and maintained in the case record.
- Where the individual is a minor, the individual and his or her parent or guardian shall be given the opportunity to provide input regarding who will be in the room with the individual when Telehealth Services are provided.
- If in-person services are required/needed, requested, they are offered without significant delay or disruption in care.

Key Factors for Telehealth Practitioners to consider when making determinations regarding appropriateness to receive services via telehealth:

- Individual and, as applicable, family preference.
- Ability of the distant-site Telehealth Practitioner to communicate and work with program staff as a collective treatment team, regardless of service modality.
- Ability of individual and, as applicable, family, to participate in and benefit from the critical components of the service or program model via telehealth. Considerations include, but are not limited to:
  - Need for in-person services, such as laboratory testing or long-acting injectable medications
  - Need to engage in the physical structure or immersive nature of a program
  - Need for physical co-location to address specific goals

TH SOC 1.1 continued…

Key Factors regarding assessment for appropriateness, continued:

- Clinical factors should be considered in balancing the need for in-person and Telehealth Services, including but not limited to:
  - The individual's capacity to safely engage.
  - Type or complexity of the individual's presentation, symptoms (e.g., risk for suicide or self-injurious behavior, substance use disorder relapse, violence, hospital admissions).
- Factors related to the appropriateness of Audio-only Telehealth Services:
  - For individuals without the developmental capacity to participate meaningfully telephonically, the Audio-only modality **is not recommended** (e.g., children 0-5).
- Presence of new or worsening declared public health emergency or other significant occurrence, such as a natural disaster.

TH SOC 1.1 continued…

Key Factors regarding assessment for appropriateness, continued:

- Factors related to accessibility of Telehealth Technologies, including but not limited to:
  - The individual's and, as applicable, family's familiarity and comfort with the available technology.
  - Technological capability within the home or community setting and its accessibility to the individual or family, as applicable.
  - Issues related to incorporating additional assistive technologies (i.e., captioning) or individuals (i.e., language interpreters).
- Factors related to the adequacy, safety, and privacy space for the individual to receive Telehealth Services, including adequacy to maintain confidentiality.
- Cultural and linguistic factors, including but not limited to the individual's comfort receiving Telehealth Services using required accommodations to meet the language needs of those with Limited English Proficiency and individuals with hearing loss or who are deaf.

TH SOC 2.1:
Informed Consent

Telehealth SOC 2.1: Core Compliance

- There is documentation of informed verbal or written consent for delivery of services via use of telehealth in the individual's record
- Consent provides individuals with sufficient information and education about telehealth, to assist them in making an informed choice including:
  - The right to receive services in-person, at any time, and the request will be honored
  - Advantages and disadvantages of receiving services via telehealth
  - Individuals, or a minor individual's parent or guardian, is informed how to verify a Telehealth Practitioner's professional license
  - Where the individual is a minor, consent shall also be provided by the parent/guardian or other person who has legal authority to consent to health care on behalf of the minor, as applicable
- Where an individual refuses to participate in services via telehealth, in-person services are offered without significant delay or disruption in care.

Telehealth SOC 2.1 continued…

Informed Consent means that Telehealth Practitioners provide individuals with sufficient information and education about telehealth to assist them in making an informed choice to receive Telehealth Services.

The Telehealth Practitioner must confirm the individual is:

- Aware of the potential advantages *and disadvantages* of telehealth
- Given the option of not participating in Telehealth Services
- Given information regarding their right to request a change in service delivery mode at *any time*

The Telehealth Practitioner must inform individuals that they will not be denied services if they do not consent to Telehealth Services or request to receive services in-person.

Where the individual is a minor, consent shall be provided by the parent/guardian or other person who has legal authority to consent to health care on behalf of a minor.

Telehealth SOC 2.1 continued…

How should informed consent be obtained?

- Informed consent shall be obtained through a process of communication between the Telehealth Practitioner and individual receiving services. **Informed consent processes should be specified in the providers' policies and procedures.**

When should informed consent be obtained?

- Informed consent must be obtained ***before or during the first visit*** in which services via telehealth are provided, and documentation must clearly identify that this occurred.

TH SOC 5.1: Documentation

Telehealth SOC 5.1: Core Compliance

- Progress notes indicate:
  - The service was provided via telehealth
  - The start and end time of the service
  - The service was provided Audio-only, as applicable.
- For services delivered via telehealth to Medicaid beneficiaries, the chart documents why Audio-only services were used for each encounter (i.e., Audio-only Telehealth Services are the individual's preference or Audio-visual Telehealth Services are not available due to lack of equipment or connectivity).
- Treatment Plan/Service Plan/Individual Recovery Plan reviews include a person-centered discussion of the use of telehealth as a service modality.
- Practitioners have real-time access to the full Electronic Health Record.
- The appropriate telehealth modifiers are attached to all claims.

Telehealth SOC 5.1 continued…

Documentation for a service delivered via **audio-visual** telehealth must include:

- That the service was delivered via telehealth
- The individual's identity was verified
- The individual's location and emergency contact
- Start/end time of the service
- As applicable:
  - re-assessment for appropriateness to receive services via telehealth
  - the TH practitioner identified themselves to new individuals
  - IF in-person services were requested → they are offered without significant delay or disruption in care
  - IF there was a technology failure during service delivery → documentation the approved contingency plan was followed

Telehealth SOC 5.1 continued…

Documentation for a service delivered via **audio-only** telehealth must include:

- **That the service was delivered via audio-only telehealth and why (e.g., recipient's preference)**
- The individual's identity was verified (may need to look different via audio-only)
- The individual's location and emergency contact
- Start/end time of the service
- As applicable:
  - re-assessment for appropriateness to receive services via telehealth
  - the TH practitioner identified themselves to new individuals
  - IF in-person services were requested → they are offered without significant delay or disruption in care
  - IF there was a technology failure during service delivery → documentation the approved contingency plan was followed

Additional Documentation Requirements

Telehealth SOC 3.1, Physical Space and Confidentiality of Health Information

- The individual's identity is verified at each encounter, and this is documented in the record
- The practitioner identifies themselves to new individuals and this is documented in the record

"APPENDIX A: Attestation of Compliance for Approval of Telehealth Services" expands on identity verification with the requirement policies and procedures include acceptable authentication and identification procedures which will be employed by both the telehealth practitioner and the recipient.

Sample identity verification documentation entry: "Recipient identity verified by name and DOB. Client located at home address on file in Albany, NY. Emergency contact confirmed."

Telehealth SOC 4.1, Emergency Procedures

- Individual emergency contact is kept on file and updated/confirmed regularly
- The individual's location is confirmed at the start of each encounter, and this is documented in the record
- The provider of service has a documented process:
  - For the Telehealth Practitioner to communicate with on-site staff should there be an emergency or other clinical or safety concern, consistent with on-site emergency procedures.
  - That ensures the Telehealth Practitioner is able to arrange for an emergency in-person evaluation in the event that becomes necessary.

"APPENDIX A: Attestation of Compliance for Approval of Telehealth Services" expands on emergency procedures with the requirement policies and procedures address events that emergency in-person evaluation becomes necessary, including specifics for situations in which the individual's place of residence may be considered the originating/spoke site.

Key Takeaways

Considerations for service delivery via Telehealth:

Emergency and Crisis Preparedness:

Providers must be able to:

- Identify **local** emergency resources (e.g., CPEP, 911 dispatch, mobile crisis)
- Maintain **updated** client location each session
- Activate **timely** in-person intervention if needed

Clinical Appropriateness:

Telehealth must be reassessed when:

- Client's stability changes
- Risk increases (SI/HI, substance use, psychosis concerns)
- Client requests **in-person services**

Frequently Asked Questions

Can a telehealth provider deliver services from outside of New York State?

- Yes! “Telehealth practitioners may deliver services ***from a site located within the United States or its territories***, which may include the practitioner’s place of residence, office, or other identified space approved by OMH and in accordance with guidelines established by the Office.”

Does a separate informed consent form need to be utilized?

- No! Informed consent, “may be incorporated into the informed consent process for in-person care, *or* a separate informed consent process for telehealth services may be developed and used.

Does the MHOTRS program need to have staff on-site during their, “additional hours by appointment?”

- No! On-site staff presence is ***not*** required for services delivered via telehealth, where the originating or “spoke” site (where the recipient is physically located) is the recipient’s place of residence or other identified location.

Questions and Answers

Questions and Answers (Q&A)

- How long should clinical (telehealth) data be retained?
  - Per 596.6(b)(10)(i): “The program in which the recipient is admitted shall be responsible for obtaining and maintaining a complete clinical record as if the recipient were seen in-person at such site.” For clinical records at facilities licensed or operated by OMH, this would be a retention period of at least 6 years.
- At what point, if any, does the use of telehealth need to be documented in the treatment plan?
  - Per TH SOC 5.1 (Documentation): “Treatment Plan/Service Plan/Individual Recovery Plan reviews include a person-centered discussion of the use of telehealth as a service modality.” Additionally, Per MHOTRS SOC 2.14: “The Treatment Plan is reviewed when needed, as determined by the individual/family and treating clinician based on need to address clinical changes […]” Additionally, please see program-specific guidance to inform the content of a treatment plan.
- What are regulation standards and best practices for use of telehealth modality?
  - NYS OMH Telehealth Standards of Care

Q&A continued…

- Can telehealth be utilized for service delivery when the client is temporarily out of the state?
  - Yes, Per 596.4 (e) Originating or "spoke" site means a site where the recipient is physically located at the time mental health services are delivered to them by means of telehealth services, which may include the recipient's place of residence, other identified location, or other temporary location out-of-state.
- Clients are coming to an outpatient facility to meet with a remote MD for psychiatric assessments and an LMHC for psychotherapy. With regards to billing, are these visits considered telehealth or in-person?
  - Per Part 596.6(a)(8): "For the purposes of billing, telehealth services shall be considered face-to-face contacts when the service is delivered in accordance with the provisions of the plan approved by the Office pursuant to section 596.5 of this Part. Providers should refer to the program specific guidelines established by the Office to determine authorized use of telehealth services."
- When is it appropriate to use telehealth?
  - Part 596.1(c) The Office of Mental Health (the Office) supports the use of telehealth services where it is in the best interests of the person served, in accordance with Office guidance, and is performed in compliance with applicable federal and state laws and regulations and the provisions of this Part in order to address legitimate concerns about privacy, security, recipient safety, and interoperability.

Q&A continued…

- Is there a recommended format or template for initial and/or ongoing assessment of appropriateness for telehealth services?
  - OMH has not prescribed a format for initial or ongoing assessment of appropriateness to receive services via telehealth; however, the Telehealth Services Guidance document includes, "[…] key factors Telehealth Practitioners need to consider when making determinations concerning telehealth appropriateness with individuals receiving services" (pp. 7-10). If the assessment for appropriateness format chosen, covers the 9 highlighted areas in the guidance document, the format should be aligned with OMH regulations/SOC, and comply.
- How to proceed if, clinically, the client should be seen in-person, but they only want to be seen via telehealth?
  - Program-specific guidance would be most applicable to reference when working through this scenario in-practice. Without more specific information, more generally applicable guidance would encourage the provider to utilize their P&P related to handling treatment adherence/engagement issues. Determination of appropriate level of care appears relevant in this scenario as well.

Q&A continued…

- Do the client's and provider's identity need to be confirmed when they know each other and can see each other on video?
  - Yes, per TH SOC 3.1: 1) The individual's identity is verified at each encounter, and this is documented in the record. 2) The practitioner identifies themselves to new individuals and this is documented in the record.
- For clients with visual impairments who cannot participate effectively in video sessions, would it be acceptable to provide services via telephone if we have documentation from a physician or other healthcare provider supporting this need? What documentation is required, and how should it be noted in the client record? New treatment plan/consents needed?
  - It sounds like you're on the right track with that specific scenario and regulation/standard of care adherence; however, follow-up guidance can be provided if you submit this question to the telehealth email box with program-specific information included. New treatment plans and consents would be required, as a healthcare provider's support for the audio-only telehealth modality would need to be documented.

Q&A continued…

- What are the regulatory requirements for Assertive Community Treatment (ACT) service delivery via telehealth?
  - Please see pp. 18-20 of the Telehealth Services Guidance for OMH Providers for ACT-specific guidance.
- Are there any updates for Telehealth services coming in 2026 and what is the long-term plan/evolution?
  - We do plan to utilize the feedback from this webinar, as well as the questions that come into the Telehealth mailbox to inform a one-page FAQ/guidance document for providers. Additionally, I can share there is a draft form of a guidance document for the use of Telehealth in Mobile Crisis; however, there is not a release date set yet. We will also look to the feedback from this Regulatory Refresher webinar to determine future training needs.

Follow up contact:

Please email your telehealth related questions to:

telehealth@omh.ny.gov

Office of Mental Health