



Healthcare Task Force



Governor's Commission on Alcohol and Other Drugs

Health Care Task Force of the New Hampshire Governor's Commission on Alcohol and other Drugs

Telehealth Recommendations

Background

The Healthcare Task Force of the NH Governor's Commission on Alcohol and other Drugs has reviewed COVID emergency provisions of national and New Hampshire state agencies and considered the implications of continuing these as standing regulations. Below are its recommendations with respect to each of these. The recommendations are based on experience and observations regarding care of patients with SUD during the pandemic, and, where possible, available evidence.

General comments based on TF discussion

- Different patients respond differently to care via telehealth; whatever the contextual regulations, providers must seek to select the treatment mode (in person or telehealth) that is best for each individual patient in a given context.
 - For some patients, telehealth has been a positive experience in term of increasing access to care that may have been limited by travel, childcare and other barriers, as well as reducing discomfort with in-person disclosure and discussion for some.
 - For other patients, the loss of in person interaction has negatively impacted treatment and recovery.
- The presence of regulations does not mean that clinicians will, or should, always elect the least restrictive or most flexible option of care, but increasing options for care may expand access. As examples:
 - While audio only treatment is permitted under emergency orders, most providers strive to connect through audiovisual communications; however, for patients or systems who do not have visual capacity, use of audio only phones has facilitated care that would otherwise be unavailable and is a needed option for some situation.
 - While regulations permitting initiation of buprenorphine without an in-person visit facilitate timely access into treatment, an in-person evaluation is often preferred if it is can be arranged and does not delay needed treatment.
- Providers using telehealth options for SUD treatment should aim to collect objective information regarding substance use where possible. Examples include doing visual examination for IV injection sites via video or collecting witnessed saliva samples for drug testing.



Healthcare Task Force



Governor's Commission on Alcohol and Other Drugs

Summary of Telehealth Emergency Provisions related to Treatment of Substance Use Disorders in NH With Healthcare TF Recommendations for after COVID-19 when Emergency Orders End.

Authorizing Document and/or References	Emergency Provision	Recommendation
General Telehealth		
1-NH EO 8	Pharmacologic and psychosocial therapies along with recovery support services for substance use disorder may be provided using telehealth services.	Retain
1-NH EO 8 & 2- NH Telehealth sheet	Eligible providers include (diverse list as specified in NH Emergency Order #8)	Retain
Privacy & Confidentiality		
3-DHHS/OCR	Penalties will not be imposed for noncompliance with the HIPAA Rules in connection with the good faith provision of telehealth using non-public facing audio or video communication products.	Defer (Note HIPAA rules are in transition).
3-DHHS/OCR; 2-NH Telehealth Fact Sheet.	Acceptable non-public facing applications include: (currently approved NH DHHS list)	Defer
same	Telephone (including audio only)	Retain
same	HIPAA compliant audio-visual options	Retain
same	Popular audio-visual applications: Apple Face Time, Facebook Messenger video chat, Google Hangouts video, Zoom, Skype	Defer
3-DHHS OCR	Unacceptable public-facing apps: Facebook Live, Twitch, TikTok and similar	Retain
4-SAMSHA	Patient identifying info under 42 CFR Part 2 may be disclosed to medical personnel as necessary to meet	Retain



Healthcare Task Force



Governor's Commission on Alcohol and Other Drugs

	bona fide emergency. Providers must determine whether bf med emergency exists.	
Reimbursement		
2-NH Medicaid Telehealth Fact sheet	Third party reimbursement for telehealth services in NH must be no less than that for comparable traditional in person services.	Retain
same	Eligible providers can bill commercial payers and Medicaid including Managed Care Organizations for telehealth services (including audiovisual or audio only) as long as the delivered service follows routine practices similar to if the service was provided face-to-face.	Retain
Prescribing Policies Controlled Substances		
5&6- CMS, 7- SAMHSA, 8-DEA, 14- DEA	DATA waived buprenorphine practitioners may prescribe buprenorphine to new and existing patients for treatment of SUD on the basis of telehealth visits	Retain
same	>Without first conducting an in-person evaluation	Retain, <i>But</i> establish a period within which patient should have an in-person visit.
same	>On the basis of tele communication that is: <ul style="list-style-type: none"> i. Audiovisual (audio and video), two way, interactive ii. Audio only (telephone or similar), if the clinician “determines that an adequate evaluation of the patient can be done by telephone” 	Retain Retain
same	Patients treated by telehealth will count against the practitioner’s patient limit and must be treated in accordance with any rules that apply to practicing with a waiver.	Retain



Healthcare Task Force



Governor's Commission on Alcohol and Other Drugs

Same plus 18- NH OPLC	Practitioners may issue controlled substance prescriptions based on telehealth visits: <ul style="list-style-type: none"> - Electronically (for schedules II-V), or - By calling in schedule III-V prescription to the pharmacy, or on an emergency basis schedule II <ul style="list-style-type: none"> -For an emergency call in of a schedule II, the prescriber must send a photo, fax, or hard copy to the pharmacy within 14 days. [18 NH OPLC] - By written prescriptions (for schedules II-IV) 	Retain
<i>Cross border prescribing</i>		
DEA 9	Practitioners licensed in NH with DEA registration in NH may prescribe buprenorphine for OUD (with waiver) or other controlled substances based on a telemedicine visit to patients who reside in NH or other states under DEA emergency rules. [9, DEA] However, some states may limit cross border practice.	Defer
same	The DEA has provided a temporary exemption of its requirement that clinicians prescribing controlled substances through telemedicine must hold a DEA registration in the State in which the patient resides.	Defer
same	Some States require clinicians to have a practice license in the State in which their patient resides (not only in the State in which they practice) in order to provide telemedicine services.	Defer
<i>Specific requirements for OTCs</i>		



Healthcare Task Force



Governor's Commission on Alcohol and Other Drugs

7- SAMHSA	OTPs can admit new patients and initiate treatment with buprenorphine if an adequate evaluation of the patient can be accomplished via telehealth and is deemed appropriate. [7, SAMHSA]	Defer
7- SAMHSA	OTPs can admit new patients and initiate treatment with methadone, only if an initial in-person physical evaluation is performed.	Defer
5-SAMSHA, 6-CMS	Buprenorphine and methadone may be provided by OTPs based on audio only or audiovisual telehealth visits.	Defer
15- SAMHSA	OTPs, may provide 14-28 days of take-home doses of medication for opioid use disorder for all patients who in their clinical judgment are stable enough to safely handle their medication, with approval from the State.	Defer
16, SAMHSA	OTPs may arrange delivery of methadone to the homes of patients under quarantine using specified protocols.	Defer

Note:

Retain indicates the Task Force believes there is value in retaining the current emergency orders once the need due to COVID-19 is passed.

Defer indicates that the Task Force thought that determination whether to retain the stipulation of the emergency order or revert back to prior regulations was beyond the scope or domain of knowledge, expertise or responsibility of the Task Force or the Task Force could not come to consensus.

1. State of New Hampshire, Office of the Governor, Emergency Order #8, Temporary expansion of access to Telehealth Services to protect the public and health care providers. March 18, 2020. Retrieved from: <https://www.governor.nh.gov/news-media/emergency-orders/documents/emergency-order-8.pdf>
2. New Hampshire Medicaid Telehealth Fact Sheet during COVID-19 State of Emergency Declaration. March 18, 2020. Retrieved from: <https://www.dhhs.nh.gov/ombp/medicaid/documents/telehealth-covid19.pdf>
3. U.S Department of Health and Human Services, Office for Civil Rights. Notification of Enforcement Discretion for Telehealth Remote Communications during the COVID-19 Nationwide Public Health Emergency. March 30, 2020. Retrieved from: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>



Healthcare Task Force



Governor's Commission on Alcohol and Other Drugs

4. Substance Abuse and Mental Health Services Administration, COVID-19 Public Health Emergency Response and 42 CFR Part 2 Guidance. Retrieved from: <https://www.samhsa.gov/sites/default/files/covid-19-42-cfr-part-2-guidance-03192020.pdf>
5. Centers for Medicare & Medicaid Services. Medicare Telemedicine Update. Retrieved from: <https://www.cms.gov/newsroom/press-releases/trump-administration-issues-second-round-sweeping-changes-support-us-healthcare-system-during-covid>
6. Centers for Medicare & Medicaid Services. Covered Telehealth Services for PHE for the COVID-19 Pandemic. Retrieved from: https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes?_cldee=amFtZXMuG90dGVyQG50bXMub3Jn&recipientid=contact-cd67401124e5e91180fd000d3a03faaf-5529c3cd5620480983a420c82e5dceaa&esid=2954f2eb-308e
7. Substance Abuse and Mental Health Services Administration, FAQs: Provision of methadone and buprenorphine for the treatment of Opioid Use Disorder in the COVID-19 emergency. Retrieved from: <https://www.samhsa.gov/sites/default/files/faqs-for-oud-prescribing-and-dispensing.pdf>
8. Drug Enforcement Administration, Use of Telephone Evaluations to Initiate Buprenorphine Prescribing. March 31, 2020. Retrieved from: [https://www.deadiversion.usdoj.gov/GDP/\(DEA-DC-022\)\(DEA068\)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20\(Final\)%20+Esign.pdf](https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-022)(DEA068)%20DEA%20SAMHSA%20buprenorphine%20telemedicine%20(Final)%20+Esign.pdf)
9. Drug Enforcement Administration. Letter to DEA Registrants from DEA Assistant Administrator Diversion Control Division, William McDermott, March 25, 2020. [https://www.deadiversion.usdoj.gov/GDP/\(DEA-DC-018\)\(DEA067\)%20DEA%20state%20reciprocity%20\(final\)\(Signed\).pdf](https://www.deadiversion.usdoj.gov/GDP/(DEA-DC-018)(DEA067)%20DEA%20state%20reciprocity%20(final)(Signed).pdf)
10. State of New Hampshire, Office of the Governor, Emergency Order #15, Temporary authorization for out of state medical providers to provide medically necessary services and provide services through telehealth. March 23, 2020. Retrieved from: <https://www.governor.nh.gov/news-media/emergency-orders/documents/emergency-order-15.pdf>
11. Vermont COVID-19 licensing information 3-31-20, <https://www.healthvermont.gov/health-professionals-systems/board-medical-practice/COVID19>
12. Massachusetts licensing information 3-24-20, <https://www.mass.gov/service-details/important-information-regarding-physician-licensure-during-the-state-of-emergency>
13. Maine licensing information 3-20-20, <https://www.maine.gov/md/sites/maine.gov/md/files/inline-files/Medical%20Licensing%20and%20Telehealth%20Executive%20Order.pdf>
14. Drug Enforcement Administration, Use of Telemedicine While Providing Medication Assisted Treatment (MAT). Retrieved from: <https://www.hhs.gov/opioids/sites/default/files/2018-09/hhs-telemedicine-dea-final-508compliant.pdf>
15. Substance Abuse and Mental Health Services Administration, Opioid Treatment Program Guidance. March 16, 2020. Retrieved from: <https://www.samhsa.gov/sites/default/files/otp-guidance-20200316.pdf>
16. Substance Abuse and Mental Health Services Administration (SAMHSA), OTP Guidance for Patients Quarantined at Home with the Coronavirus. Retrieved from: <file:///C:/Users/rsreedhara/Downloads/SAMHSA,%20%20DPT,%20CSAT%20OTP%20QUARANTINE.pdf>
17. American Society of Addiction Medicine, COVID-19 - Adjusting drug testing protocols. Retrieved from: <https://www.asam.org/Quality-Science/covid-19-coronavirus/adjusting-drug-testing-protocols>
18. Office of Professional Licensure and Certification. Retrieved from: <https://www.oplc.nh.gov/pharmacy/documents/guidance-ph704.03-emerg-rule.pdf>