



March 9, 2020

Dear Provider:

The NYS Office of Addiction Services and Supports (OASAS) is issuing this regulatory waiver letter to facilitate treatment options consistent with Governor Cuomo's declaration of a disaster emergency (Executive Order 202 -hereinafter "EO") due to the novel coronavirus, COVID-19, outbreak. The EO temporarily suspends rules and regulations that hinder, or delay action necessary to cope with the disaster emergency or modifies regulations if necessary, to assist or aid in coping with such disaster. Accordingly, OASAS hereby waives and modifies the following provisions of 14 NYCRR 830.5 – Telepractice:

1. 830.5.(5) - An Office certified program must obtain prior written authorization from the Office pursuant to this section before implementing telepractice services; services shall be limited to those authorized and approved by the Office...
2. 830.5 (5)(b) Designation. (1) & (2) Requests for designation to provide telepractice services shall be in the form of a written proposed plan and attestation...
3. 830.5 (5)(c) Implementation. (v) Patients and prospective patients must have at least one in-person evaluation session with clinical staff prior to participation in a telepractice session to determine if telepractice is appropriate additional evaluations may be required for medication assisted treatment using controlled substances. (2) Telepractice services must be included in a provider's quality review process.
4. 830.5(7) Failure to maintain minimum standards for designation, implementation and reimbursement may result in disciplinary action against a provider's operating certificate. In the event the Office determines that approval to utilize telepractice must be revoked, the Office will notify the provider in writing. The provider may request an administrative review of such decision pursuant to this paragraph...
5. Any other sections of Part 830 or other OASAS regulations that are inconsistent with the temporary authorization outlined below.

In addition to waiving the above referenced regulations, OASAS is allowing providers a mechanism for rapid delivery of telepractice services by OASAS certified providers. Providers who want to deliver telepractice and do not already have approval should complete the Self-Attestation included with this letter. This Self-attestation will permit providers to deliver services via telepractice for a time-limited period, not to exceed the disaster emergency. Services can be delivered to any patient admitted or seeking admission to a program. Providers must certify to the following:

- That the practitioner(s) will possess a current, valid license, permit, or limited permit to practice in NYS

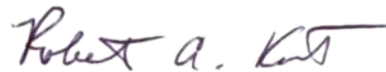
- The telepractice services will be conducted via telecommunication systems employing acceptable authentication and identification procedures by both the sender and the receiver;
- Provider has a relationship with a credible technology service provider;
- Services delivered will meet federal and state confidentiality requirements including, but not limited to, 42 C.F. R. Part 2, and 45 C.F.R. Parts 160 and 164 (HIPAA Security Rules);
- The spaces occupied by the patient and the practitioner both meet minimum privacy standards consistent with patient-practitioner interaction and confidentiality at a single OASAS certified location;
- Culturally competent translation services will be provided when the patient and practitioner do not speak the same language;
- Provider has written procedures for a contingency plan in the event of a transmission failure or other technical difficulties which may render the service undeliverable;
- That claim modifiers “95” or “GT” will be used on each claim that represents a service via telehealth

The Self-Attestation should be submitted to the OASAS bureau of certification on-line at certification@oasas.ny.gov. Providers should also keep the original in their files. Once submitted, the OASAS bureau of certification will acknowledge receipt and provider is immediately authorized to begin telepractice. The designation will be temporarily added to the providers operating certificate.

Providers who want to continue delivering telepractice once the disaster emergency end (currently April 6, 2020) may submit the telepractice plan and attestation found at the end of the OASAS telepractice standards: <https://oasas.ny.gov/system/files/documents/2020/02/telepractice-standards.pdf>. Review and approval of these applications will be prioritized if received before the end of the disaster emergency.

Questions can be directed to Legal@OASAS.ny.gov.

Sincerely,



Robert A. Kent
General Counsel

cc: Keith McCarthy
Janet Paloski
Trisha R. Schell-Guy