

NEW YORK PROPOSES EXPANDED TELEHEALTH IN THE MENTAL HEALTH SETTING

Jane Bello Burke
Health Law Alert
January 24, 2019

On January 23, 2019, the New York State Office of Mental Health published draft amendments to its Part 596 regulations expanding the use of telehealth to deliver mental health services in the regulated mental health system. The OMH draft regulations, which implement 2018 statutory changes, are available here and at https://www.omh.ny.gov/omhweb/policy_and_regulations/.

The draft regulations seek to expand opportunities for the delivery of and access to mental health services via telehealth – redesignated as “telemental health” rather than “telepsychiatry” – in the OMH-licensed setting. OMH’s draft regulations would:

- expand individuals eligible to deliver telehealth mental health services to include psychologists, mental health counselors, and social workers, in addition to psychiatrists and nurse practitioners;
- expand eligible settings to include the patient’s place of residence or other temporary location within or outside New York, in addition to OMH-licensed sites;
- eliminate the requirement that the individual delivering services be physically located at the distant/hub site that participates in Medicaid; and
- permit the time-limited use of telemental health in PROS (Personalized Recovery Oriented Services) and ACT (Assertive Community Treatment) programs when there is a demonstrated shortage of psychiatrists or nurse practitioners.

The draft regulations would also increase requirements applicable to telemental health in the OMH-licensed setting, including requirements for, among other things:

- protocols requiring an initial in-person assessment to determine the appropriateness of the telepractice modality for the individual patient;
- adherence to the same laws, rules, and regulations and use of the same standards of care and competencies as those required for in-house delivered services; and
- the use of evidence-based telehealth or telemental health practice guidelines and standards of practice, to the extent available.

Attorneys

Nathan Berti
Jane Bello Burke
Roopa Chakkappan
William Comiskey
John Godwin
Michelle Merola
Gary Schober
David Stark
Sujata Yalamanchili

Practices & Industries

Healthcare

NEW YORK PROPOSES EXPANDED TELEHEALTH IN THE MENTAL HEALTH SETTING

The draft regulations would apply to providers licensed under Article 31 of the Mental Hygiene Law and authorized by OMH to include the use of telemental health services as a means of rendering mental health services. The public has 60 days from publication to comment on the proposed amendments.

Contact Us

If you have any questions regarding the information contained in this alert, please contact Jane Bello Burke at jbburke@hodgsonruss.com. If you received this alert from a third party or from visiting our website, and would like to be added to our mailing list going forward, please email us at info@hodgsonruss.com.