

Post-COVID Guidance for Use of Telemental Health in OMH Licensed Comprehensive Psychiatric Emergency Programs (CPEP) and Inpatient Programs

The COVID-19 Disaster Emergency provided an opportunity for rapid expansion of telemental health in the Behavioral Health System. While this is a promising development, it is a priority for OMH to ensure that this expansion and innovation does not have unforeseen, negative effects on the quality and safety of acute care psychiatric services, where in-person interaction has been the standard for service delivery. With that context, OMH is issuing the following guidance for the **post-COVID** implementation of telemental health for Inpatient Psychiatry and CPEP.

In order to meet the core clinical needs of the service, OMH-licensed Psychiatric Inpatient Programs and CPEPs must continue to provide in-person staff consistent with OMH Staffing regulations (Psychiatric Inpatient Units of General Hospitals – 580.6 and 580.7; Hospitals for Persons with Mental Illness – 582.6 and 582.7; CPEP – 590.10). With OMH approval, Psychiatric Inpatient Programs and CPEPs may implement staffing plans in which telemental health is used to supplement, but not replace, required in-person coverage.

OMH will review applications that describe innovative approaches to enhancing in-person care with interventions offered via telemental health platforms. OMH will not approve applications for telemental health services that are not patient focused or that appear to address primarily administrative or cost saving purposes. All applications for telemental health services for hospital-based Inpatient and CPEP services must be reviewed and approved by the OMH Chief Medical Officer or designee.

OMH-licensed providers have two options for requesting approval for telemental health services on inpatient and/or CPEP settings: a) Administrative Action requests in which telemental health services are proposed to supplement in-person services; and b) 501 waiver requests for circumstances in which telemental health services are proposed to substitute for in-person services.

A. Administrative Action requests for telemental health services to supplement in-person inpatient and/or CPEP services should address all the following for each program type:

1. Inpatient

Telemental health may be used to supplement (and not replace) inpatient services when the client is able to adequately engage via telemental health. The following core inpatient services must be provided in-person:

- a. Hospitals are required to provide 24/7 on-site physician coverage for inpatient services. See relevant OMH regulations, Psychiatric Inpatient Units of General Hospitals – 580.6 and Hospitals for Persons with Mental Illness – 582.6.
- b. The attending Psychiatrist or Psychiatric Nurse Practitioner of record must be on-site, at minimum, during regular business hours. The number of attending psychiatrists is dependent on the number and complexity of clients. Existing in-person staffing patterns for psychiatry must be maintained and may be enhanced but not replaced by telemental health.

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- c. Each client must be seen and assessed in-person, daily, by the attending provider during the regular work week.
- d. Telemental health may not replace the in-person evaluation required to make a determination of the need for restraint or seclusion.
- e. Proposals that do not address all of the above will only be considered under a 501 waiver request. See Section B for details.

Policy and Procedures for implementation of telemental health must address:

- a. Which disciplines are essential, and must therefore have in-person capabilities (e.g., Nursing, Social Work, etc.).
- b. Procedures for providing the full array of treatment (including co-occurring substance use), psychosocial, rehabilitative services as well as care coordination and discharge planning required by the Joint Commission and the Centers for Medicare and Medicaid Services (CMS). These services must be delivered by appropriately trained staff practicing within their scope of practice and be individualized to the needs of each client. These can be offered individually and/or in group settings.
- c. How assessments, non-psychiatric treatment services and other core inpatient services will be offered in-person and what services may be offered via telemental health.
- d. Formal, structured mechanisms to allow for warm handoffs and sign-out of patient information from telemental health staff to in-person staff, particularly when information is obtained by telemental health staff outside business hours.
- e. A plan for how the telemental health practitioner will have access to the full electronic health record, video and telephonic capabilities, and HIPAA compliant methods of communication while working.
- f. Procedures that will be adopted to credential a) individual practitioners offering telemental health services; and b) staff employed by contracted telehealth agencies.
- g. Procedures for quality management or quality improvement for clinicians who are independent contractors or employees of a contracted telehealth vendor. Applicants cannot delegate quality management or quality improvement functions.
- h. Processes to ensure adequate clinical supervision of all privileged staff.
- i. Procedures that are in place to ensure privacy of records is maintained, and that there is adequate continuity of care to avoid disruptions to the composition of the treatment team. If contracting with a telehealth vendor, applicants should have contractual agreements or other procedures in place.

2. CPEP

Telemental health may be used to supplement (and not replace) CPEP services when the client is able to adequately engage via telemental health. The following core CPEP services must be provided in-person:

- a. According to OMH CPEP Staffing regulations, 590.10, CPEPs must, at a minimum, employ the following types and numbers of staff. Where the regulation

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specifies that the staff must be on duty, they cannot be replaced with telemental health:

- at least one full-time equivalent psychiatrist who is a member of the psychiatric staff of the program shall be on duty and available at all times.
 - at least one full-time equivalent registered nurse shall be on duty at all times.
 - at least one full-time equivalent licensed master social worker or licensed clinical social worker shall be on duty and available, at a minimum, during the day and evening hours.
 - a sufficient number of security personnel shall be on duty and available at all times.
 - at least one full-time equivalent credentialed alcoholism and substance abuse counselor or clinical staff person with experience in the counseling or treatment of individuals with a substance abuse problem shall be available or on call 24 hours a day.
- b. The number of attending psychiatrists and requirements for overnight coverage is dependent on the number and complexity of clients. Existing in-person staffing patterns for psychiatry must be maintained and may be enhanced but not replaced by telemental health.
- c. Each client must be seen and assessed in-person by the attending for the duration of their CPEP stay.
- d. Telemental health may not replace the in-person evaluation required to make a determination of the need for restraint or seclusion.
- e. Proposals that do not address all of the above will only be considered under a 501 waiver request. See Section B for details.

Policy and Procedures for implementation of telemental health must address:

- a. How telemental health will be used to supplement the in-person staffing requirements specified in regulation.
- b. Which disciplines, in addition to those specified in regulation, are essential and must therefore have in-person capabilities.
- c. Procedures for providing behavioral health emergency assessment, engagement, treatment, and care coordination/discharge planning services required by the Joint Commission (JC) and the Centers for Medicare and Medicaid Services (CMS). These services must be delivered by appropriately trained staff practicing within their scope of practice and are individualized to the needs of each client.
- d. How assessments, non-psychiatric treatment services and other core CPEP services will be offered in-person and what services may be offered via telemental health.
- e. Formal, structured mechanisms to allow for warm handoffs and sign-out of patient information from telemental health staff to in-person staff, particularly when information is obtained by telemental health staff outside business hours.

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- f. A plan for how the telemental health practitioner will have access to the full electronic health record, video and telephonic capabilities, and HIPAA compliant methods of communication while working.
- g. Procedures that will be adopted to credential a) individual practitioners offering telemental health services; and b) staff employed by contracted telehealth agencies.
- h. Procedures for quality management or quality improvement for clinicians who are independent contractors or employees of a contracted telehealth vendor. Applicants cannot delegate quality management or quality improvement functions.
- i. Processes to ensure adequate clinical supervision of all privileged staff.
- j. Procedures that are in place to ensure privacy of records is maintained, and that there is adequate continuity of care to avoid disruptions to the composition of the treatment team. If contracting with a telehealth vendor, applicants should have contractual agreements or other procedures in place.

3. For both program types:

Use of telemental health for MHL status determinations must be provided consistent with current OMH regulation (found [here](#)).

Applications for telemental health services that facilitate access to expert consultants for management of specific medical conditions or circumstances for hospitalized psychiatric patients are permitted.

If substantial changes need to be made to a telemental health implementation plan previously approved by OMH, updated Policies and Procedures describing proposed changes must be submitted to OMH for approval, prior to implementation.

- B. 501 Waiver requests for circumstances in which telemental health services are proposed to substitute for in-person services.

OMH is aware that there may be special circumstances in which an on-site presence for psychiatry poses a significant challenge. Hospitals may seek approval for telemental health staffing plans that do not include an on-site presence for psychiatry or other clinical disciplines by submitting a waiver request pursuant to Part 501 of Title 14 NYCRR.

Applications that request telemental health coverage for hospital-based psychiatric or other care to address provider shortages must include a detailed description of the hospital's efforts to recruit and retain hospital psychiatry and other staff.

- To address acute, serious staffing shortages providers may request a time-limited waiver, which may be considered for extension upon request.
- For rural settings where there have been long-term difficulties recruiting and maintaining permanent staff, waivers are valid for the duration of the operating certificate and must be submitted for renewal upon re-issuance of the OC.



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For more information:

[Guidance on submitting telemental health plans for OMH approval](#)

[Information on submitting a Part 501 waiver](#)