**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**416 BOARD OF SOCIAL WORKER LICENSURE**

**Chapter 18: TELEHEALTH**

**SUMMARY**: This chapter implements the provisions of P.L. 2021, c. 291 (32 M.R.S. §§ 7071 *et seq.*) by establishing standards of practice and appropriate restrictions for when social workers use telehealth to provide services to clients.

**1. License Required**

1. Any social worker who provides social work services through telehealth shall meet the following requirements:

A. All social workers shall have an active Maine license in good standing; and

B. During the delivery of services through telehealth, the client shall be located within the borders of the State of Maine. Social workers are responsible for taking reasonable steps to verify the physical location of a client before providing services.

2. Social workers providing services via telehealth to a client physically located in any other jurisdiction are responsible for ensuring they comply with all laws and rules of that jurisdiction before providing services to a client located in that jurisdiction.

**2. Standards of Practice and Professional Conduct for Telehealth**

1. Social workers who choose to provide telehealth servicesshall:
2. At all times comply with Title 32, Chapter 83 of the Maine Revised Statutes, the board’s rules and current standard of care requirements applicable to onsite care; and
3. Establish and maintain competence in the use of telehealth through continuing education, consultation, or other procedures.
4. The social worker shall use telehealth to deliver services only when it is appropriate for the client. Decisions regarding the appropriate use of telehealth shall be made on a case-by-case basis. The social worker shall conduct a risk-benefit analysis and document that:
5. The client's presenting problems and apparent condition are consistent with the use of telehealth to the client's benefit; and
6. The client has sufficient knowledge and skills in the use of the technology involved in rendering the service or can use a personal aid or assistive device to benefit from the service.
7. Social workers shall regularly review and evaluate whether delivery of services through telehealth is appropriate and continues to meet the goals of services. A social worker who determines that services cannot be provided through telehealth shall advise the client to obtain services in-person, and, when necessary, refer clients to another professional.
8. Social workers shall attempt to identify a contact person who the social worker may contact on the client’s behalf in a life-threatening emergency only.
9. The following are exempt from this Chapter:
10. Electronic communication used to schedule appointments, billing, and/or the establishment of benefits and eligibility for services; and,
11. In the context of an in-person client relationship, telephone or other electronic communications made for the purpose of ensuring client welfare in accord with reasonable professional judgment.
12. **Informed Consent**
13. At the outset of providing services by telehealth, the social worker shall obtain informed consent from the client, or other appropriate person with authority to make health care decisions for the client. Social workers shall assess clients’ ability to provide informed consent.
14. At a minimum, the informed consent shall inform the client of:
15. The benefits and risks of using telehealth in the provision of social work services. Examples of potential benefits include, but are not limited to, immediate access to services, convenient scheduling, privacy, and reduced or eliminated transportation barriers. Examples of potential risks include, but are not limited to, the lack of visual and auditory cues, delayed responses, the need for crisis services, confidentiality breaches, and technological failures.
16. The potential risks to confidentiality of information due to the use of telehealth, such as the risks of entering private information when using a public access computer, or one that is on a shared network, and caution against using auto-fill usernames and passwords.
17. The needs associated with the delivery of services via telehealth technology, for example having access to a computer or smartphone with the correct capabilities or internet access.
18. The risk of the sudden and unpredictable failure of technology and alternative means of contacting the client if technology fails during a session with the client, and provide to the client alternative means of contacting the social worker.
19. The local crisis telephone number and/or the local emergency mental health telephone number.
20. Receiving services via telehealth may affect billing and access to insurance benefits.
21. The social worker will obtain written permission of the client prior to recording any part of the telehealth session and will disclose how the social worker will store and dispose of the recording file(s). If a recording is made a part of the clinical record, social workers shall retain and dispose of in accordance with Chapter 17 of board rules.
22. Clients should be given sufficient opportunity to ask questions and receive answers about telehealth services, and social workers shall revisit relevant informed consent issues as needed during the course of the client relationship.
23. Social workers shall maintain a record of the efforts to provide the information in this section.

**5. Confidentiality**

Social workers who choose to provide telehealth services shall:

1. At a minimum, ensure that the electronic communication is secure to maintain confidentiality of the client's health and/or educational information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws.
2. Absent exigent circumstances, strive to deliver telehealth services in private settings, with no other persons present who can see or hear the client while telehealth services are being delivered.
3. Social workers shall develop and disclose policies and procedures for notifying clients as soon as possible of any breach of confidential information.

**6. Boundaries, Dual Relationships, and Conflicts of Interest**

1. Social workers who choose to provide telehealth servicesshall:

A. At all times maintain professional decorum and provide services in an appropriate setting. This means ensuring only an appropriate background is visible, whether virtual or the background of the physical setting where the social worker is located when providing services.

B. Ensure that they maintain professional boundaries when they use technology and set clear expectations with clients necessary to maintain those boundaries.

STATUTORY AUTHORITY:

32 M.R.S. §§ 7030(2), 7071-7075

EFFECTIVE DATE:

October 11, 2022 – filing 2022-204