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Health Workforce Policy Brief

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An Analysis of Behavioral Telehealth Authorization in Scopes of Practice

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BACKGROUND

Telehealth use among behavioral health providers (BHPs) has increased substantially over the last decade. In 2008, 87% of U.S. psychologists leveraged non-face-to-face communication technologies with their patients.[1] A growing body of literature has found that patient outcomes for individuals who engage in behavioral telehealth were as beneficial[2] as in-person services across patient populations and diagnoses.[3] However, a chief barrier to full implementation of behavioral telehealth has been the lack of consistent regulatory oversight governing its use. A 2000 survey found that only three states had statutes regulating behavioral telehealth, while only nineteen states had regulations allowing the electronic provision of mental health services across state lines.[4] Further, a recent study found lack of uniformity across state scopes of practice and behavioral telehealth authorization, including who can practice behavioral telehealth and the extent of clinician roles.[5] For example, only three of twenty-two states with any telehealth laws recognized psychologists specifically, according to a 2010 report from the American Psychological Association.[6]

This project identified the varying degrees to which states authorize and reimburse telehealth and how that is related to scope of practice (SOP) regulations within a state. Similar work has been done by the Center for Connected Health Policy (CCHP), which aggregated state statutes and rules for telehealth authorization for all health professionals, and has a publicly-available database of these policies organized by state.[5] The research conducted by the Behavioral Health Workforce Research Center (BHWRC) used many of the same sources as the CCHP, but focused specifically on which BHPs can provide behavioral telehealth across the country, which services they can perform, and the reimbursement variability.

METHODS

Researchers at the BHWRC conducted a study focused on analyzing regulatory, licensing and certification, and service authorization variables within state SOPs for a subset of ten behavioral health occupations in 2016.[7] In 2017, the state statutes and administrative rules that outline SOPs for psychiatrists, psychologists, advanced practice registered nurses (APRNs), counselors (LPCs), marriage and family therapists (MFTs), social workers, and addiction counselors were further analyzed to look specifically at telehealth

CONCLUSIONS AND POLICY IMPLICATIONS

Key findings of this study show that behavioral telehealth uptake in any state could be hindered by:

- Lack of authorization in state laws regarding the use of specific forms of telehealth: interstate telehealth, store and forward, telemonitoring, and online prescribing.
- State licensing laws omitting reference to behavioral telehealth as part of the profession's scope of practice.
- State Medicaid programs not reimbursing BHPs for behavioral telehealth services provided to members.

As a result, BHPs may be unwilling to engage in telehealth services for fear of violating their license or not getting reimbursed.

State lawmakers could look at the growing evidence of the effectiveness of behavioral telehealth and pass laws to allow BHPs to more easily and reliably engage in the practice. Doing so could improve access and health outcomes for the state's citizens.

[1] Michalski D, Mulvey T, and Kohout J. 2008 APA survey of psychology health service providers. American Psychological Association. Washington DC. 2010.
[2] Garcia-Lizana F and Munoz-Mayorga I. Telemedicine for depression: A systematic review. *Perspectives in Psychiatric Care*. 2010; 46: 199-126.
[3] Lexcen FJ, Hawk GL, Herrick S, et al. Use of video conferencing for psychiatric and forensic evaluations. *Psychiatric Services*. 2006; 57: 713-715.
[4] Koocher GP and Morray E. Regulation of telepsychology: A survey of state attorneys general. *Professional Psychology: Research and Practice*. 2000; 31: 503-508.
[5] State telehealth laws and reimbursement policies: a comprehensive scan of the 50 states and DC. The Center for Connected Health Policy. Sacramento, California. 2013.
[6] Legal basics for psychologists. American psychological Association. Washington DC. 2010.
[7] Page C, Beck AJ, Buche J, Singer PM, Vazquez C, and Perron B. National Assessment of Scopes of Practice for the Behavioral Health Workforce. *Behavioral Health Workforce Research Center*. April 2017.

authorization. State Medicaid programs are the focus of this study; thus, the Center also collected and compiled each state's Medicaid provider manuals and Medicaid fee schedules. These sources were all available online through state government websites.

KEY FINDINGS

There are four common forms of telehealth: live video reimbursement, store and forward (i.e. "asynchronous communication,") telemonitoring, and online prescribing. When looking at types of telehealth authorized by state, all but three states (Connecticut, Massachusetts, and Rhode Island) authorize and reimburse for at least one form. Ten states authorize all four forms (Alaska, Arizona, Hawaii, Kentucky, Mississippi, Missouri, Nebraska, Vermont, Virginia, and Washington) and Arkansas will join that list in 2018 with their new telemonitoring law (Table 1).

Table 1. Types of Telehealth Services Authorized Nationwide

	Live Video	Store and Forward	Telemonitoring	Online Prescribing
Number of States	48	20	24	32

These authorizations do not extend to all service providers, however. State SOPs revealed psychiatrists to be the BHP most commonly authorized to perform telehealth, followed by social workers, and then psychologists. Addiction counselors are the least likely BHP to have authorization (9 states). However, none of the over 1000 statutes and rules used in this analysis explicitly prohibited telehealth by any BHP. Instead, telehealth is mostly unmentioned. This would, theoretically, allow BHPs to practice telehealth, so long as the services provided are within their legal SOP. However, Table 2 only considers BHPs as authorized to perform telehealth services if the service is explicitly mentioned in their respective SOP statutes and rules.

Table 2. Behavioral Health Providers Authorized by State Licensing Laws/Rules to Provide Telehealth

	Psychiatrist	APRN	Psychologist	MFT	LPC	Addiction Counselor	Social Worker
Number of States	31	17	21	13	14	9	21

Only nine states do not authorize any of their BHPs to perform telehealth: Alabama, Florida, Indiana, Kansas, Michigan, Rhode Island, South Dakota, Washington, and Wisconsin. In contrast, only three states allow all of the BHPs for which we collected data to provide telehealth services: Delaware, Kentucky, and Nevada.

Lastly, aside from psychiatrists, Medicaid fee schedules often did not include separate prices for BHPs. It is possible that the service is reimbursed at the same rate regardless of the professional providing it, but this was not specified in the data. States with varying reimbursement amounts by profession consistently reimburse psychologists and psychiatrists at a higher level than any other BHP for the same service code (Table 3).

Table 3. Medicaid Telehealth Pay Rates for Common Psychiatric Services by Provider

		Psychiatrist	Psychologist	APRN	LPC	MFT	Addiction Counselor	Social Worker
Psychiatric Diagnostic Evaluation	n	51	11	11	5	5	3	6
	Mean	$122.85	$111.42	$104.28	$102.43	$102.43	$105.67	$105.33
	S.D.	$45.59	$27.77	$19.53	$4.72	$17.78	$4.72	$17.42
Psychotherapy, 60 Minutes	n	51	10	12	5	5	3	6
	Mean	$114.76	$98.56	$101.07	$91.78	$91.78	$91.25	$93.28
	S.D.	$42.57	$20.93	$32.63	$16.57	$16.57	$13.09	$15.27

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