



## Telemental Health Chart

	<b>HIPAA</b>	<b>LICENSURE</b>	<b>MEDICARE*</b>
<b>Before COVID-19</b>	All vendors must be HIPAA compliant; video conferencing companies must sign business associate agreement (BAA)	Must be licensed where the social worker is located <b>AND</b> where the client is located; not all states authorize the use of teletherapy.	Medicare coverage and payment of telehealth services provided on a <u>limited</u> basis
<b>During COVID-19</b>	<a href="#">OCR</a> will not impose penalties for noncompliance with certain HIPAA Rules	Temporary suspension of social work licensure regulations for telemental health in certain states	Recently passed legislation eased some Medicare telehealth restrictions
	No risk of HIPAA sanctions/penalties for lack of BAA	The other state, where the client is located, also needs to allow the provision of telemental health services	Section 1135 waiver allows for Medicare coverage and payment of telehealth services on a <u>broader</u> basis
	Permits use of non-public facing video conferencing apps (i.e. Skype, Facetime, Messenger)	Check with professional liability company for coverage of telemental health services	Section 1135 allows for waiver of telehealth provider licensure regulations for Medicaid/Medicare reimbursement
	Prohibits use of public facing video conferencing apps (i.e. Facebook Live, TikTok)	Check with payor for reimbursement of telemental health services	Section 1135 waivers do <b>NOT</b> override state regulations

**The regulatory changes made during COVID-19 are temporary unless otherwise noted.**

**HIPAA** - The HIPAA rule relaxations specifically address the enforcement of HIPAA requirements related to the types of platforms used for video-conferencing and the need to enter a Business Associate Agreement (BAA) with the platform provider. The rule relaxations of HIPAA enforcement apply to all HIPAA-covered entities, even if they are not Medicare/Medicaid providers.

**CMS\*** – Applies to Medicare/Medicaid/CHIP providers. CMS, through section 1135 waivers, expanded telehealth coverage that was tightly restricted. Prior to COVID-19, patients were required to connect from a health facility that had approved video conferencing technology. During COVID-19, patients can connect from home via video on a smartphone or other digital device. The section 1135 waivers will end upon termination of the public health emergency, including any extensions.

**LICENSURE** – Check to find out if regulatory provisions for telemental health have been temporarily suspended in your state at <https://www.aswb.org/regulatory-provisions>