

SENTENCING REFORM TASK FORCE
FINAL RECOMMENDATION PREPARED FOR THE
COLORADO COMMISSION ON CRIMINAL AND JUVENILE JUSTICE
December 10, 2021

FY22-SR #03. Increase Access to Telehealth Services for Behavioral Health [Policy]

Recommendation FY22-SR #03

Agencies in the state should develop policies to standardize and increase access to telehealth services for behavioral health treatment for those individuals on community supervision within the criminal justice system. This recommendation includes the following propositions:

1. The Office of Behavioral Health in the Department of Human Services, the Behavioral Health Administration (being established pursuant to House Bill 2021-1097), and the Department of Health Care Policy and Financing should modernize their respective regulatory and funding structures in order to facilitate easier, broader, and more permanent access to telehealth services for those on community supervision.
2. The Division of Criminal Justice, in the Department of Public Safety should revise its standards for the Sex Offender Management Board (SOMB) and Domestic Violence Offender Management Board (DVOMB) in order to facilitate easier, broader, and more permanent access to fiscally and structurally accessible telehealth services for those on community supervision without compromise to identified crime victims.
3. These agencies should also establish a clear intent and formal communication with providers to support telehealth services as an adjunct to in-person treatment.
4. Standards should be revised to not only limit barriers to telehealth, but to incentivize providers to continually build capacity for telehealth services as an adjunct to in-person treatment. There should be fiscal and regulatory incentives for providers to serve rural areas in Colorado.
5. Standards around licensing, certification, and service delivery should be developed or revised to maintain or increase quality of service whether in person or via telehealth adjunct services and to remove duplicative or conflicting requirements for providers. Increased access to treatment should not compromise quality of treatment.

At a minimum, state standards for behavioral health treatment should address the following key areas of telehealth services and infrastructure:

- Competency of the Provider - Providers can and should have continuing education credits/demonstrated course knowledge of telehealth practices in addition to practice itself.
- Ethical Considerations in Standards of Care - Ask how providers will ensure ethical considerations and how client rights will be thoroughly upheld before, during and after any telehealth service.
- Informed Consent - Should be proactive, continuous, and responsive to changing consumer circumstances.
- Diversity and Inclusivity Considerations - How will providers ensure they are aware of and appropriately address any diversity or inclusivity concerns related to telehealth? Special considerations should be given to people who are indigent and cannot easily afford access to either telehealth or in-person treatment.
- Confidentiality of Data & Information - How will client information remain confidential?
- Security & Transmission of Data & Information - How will client information remain secure?
- Guidelines and Criteria - Delineation of criteria or guidelines regarding appropriate population for telehealth participation and measures used to assess or evaluate engagement/participation in treatment.
- Decision Making - Decision making guidelines should be developed to serve or admit clients to telehealth services that include the preferences of the client, the provider, and the

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supervision/treatment teams where appropriate (e.g. problem-solving courts, community supervision teams)

DISCUSSION

Accessing in-person or face-to-face behavioral health services is often challenging and limiting for people involved in the criminal justice system. These persons report that childcare obligations, transportation issues, employment obligations, driver's license limitations, and limited hours for accessing in-person treatment places them at risk of non-compliance. Some also report that in-person treatment often positions them in risky situations for relapse when exposed to high-risk situations and other individuals in group settings who are less invested in their personal behavior change. Further, in rural communities in Colorado, there is a limited, and somewhat monopolized, supply of in-person treatment for justice-involved people. This is especially true in rural communities where interpretation services or multi-lingual clinicians are in very short supply resulting in limited services for those who do not speak English as their primary language. Beyond those limitations, permanent telehealth capacity provides opportunities to supplement basic weekly outpatient treatment with more enhanced or intensive outpatient substance use disorder services. This is particularly critical for persons with more complex risk/need profiles who have assessed needs beyond basic outpatient services. Telehealth can also offer easier access to after-care services for those who are in transition from inpatient to outpatient services.

Research has begun to emerge that shows promising opportunities for telehealth services, especially when used as a supplement or adjunct to in-person therapeutic interventions.^a The COVID-19 pandemic provided opportunities for the criminal justice system to *temporarily* build capacity for telehealth services. Telehealth for behavioral health services, if made permanent, can increase supply and can mitigate monopolized access to clinical services to justice involved people. It can also address the myriad of competing issues that people face when balancing general life obligations with requirements of community-based supervision.

^a American Psychological Association. (2013, July 31). *Guidelines for the practice of telepsychology*. (Retrieved from www.apa.org/practice/guidelines/telepsychology)

Canadian Psychological Association (2020). *Interim ethical guidelines for psychologists providing psychological services via electronic media*. (Retrieved from www.cpa.ca/aboutcpa/committees/ethics/psychserviceselectronically)

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