

*****DRAFT - NOT FOR FILING*******5122-29-31 Interactive videoconferencing.**

[This emergency rule is being implemented to expand access to medical and behavioral health services using telehealth.](#)

- (A) For purposes of this chapter, interactive videoconferencing means the use of ~~secure~~, real-time audiovisual communications of such quality as to permit accurate and meaningful interaction between at least two persons, one of which is a certified provider of the service being provided pursuant to Chapter 5122-25 of the Administrative Code. ~~This expressly excludes Activities that are asynchronous and do not have both audio and video elements, such as~~ telephone calls, images transmitted via facsimile machine, and ~~text messages without visualization of the other person, i.e.,~~ electronic mail, [shall be considered interactive videoconferencing.](#)

Videophone utilized for communication which allow visual interaction with a deaf or hard of hearing person are permitted under interactive videoconferencing.

- (B) "Client site" means the location of a client at the time at which the service is furnished via interactive videoconferencing technology. .
- (C) "Originating site" means the site where the eligible provider furnishing the service is located at the time the service is rendered via interactive video conferencing technology.
- (D) The decision of whether or not to provide initial or occasional in-person sessions shall be based upon client choice, appropriate clinical decision-making, and professional responsibility, including the requirements of professional licensing, registration or credentialing boards.

[New and established patients may be provided services through interactive videoconferencing per this rule. No initial face-to-face visit is necessary to initiate services through telehealth .](#)

- (E) The following are the services that may be provided via interactive videoconferencing and are considered to be provided on a face-to-face:

(1) General services as defined in rule 5122-29-03 of the Administrative Code;

(2) CPST service as defined in rule 5122-29-17 of the Administrative Code; ~~and~~;

(3) Therapeutic behavioral services and psychosocial rehabilitation service as defined in rule 5122-29-18 of the Administrative Code;

[\(4\) Peer recovery services as defined in rule 5122-29-15 of the Administrative Code;](#)

[\(5\) SUD case management service as defined in rule 5122-29-13 of the Administrative Code;](#)

[\(6\) Crisis intervention service as defined in rule 5122-29-10 of the Administrative Code;](#)

~~(4)-(7) Assertive community treatment service as defined in rule 5122-29-29 of the Administrative Code; and,~~

~~(5)-(8) Intensive home based treatment service as defined in rule 5122-29-28 of the Administrative Code.~~

- (F) Progress notes as defined in rule 5122-27-04 of the Administrative Code must include documentation to reflect that the service was conducted via interactive videoconferencing.

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- (G) The provider must have a written policy and procedure describing how they ensure that staff assisting clients with interactive videoconferencing services or providing treatment services via interactive videoconferencing are fully trained in equipment usage.
- (H) Prior to providing services to a client via interactive videoconferencing, an eligible provider of the service to be provided as listed in rule 5122-29-30 of the Administrative Code shall describe to the client the potential risks associated with receiving treatment services via interactive videoconferencing and document that the client was provided with the risks and agreed to assume those risks. ~~provide the client with a written document that describes the potential risks associated with receiving treatment services via interactive videoconferencing and obtain a written acknowledgement, indicated by the client's signature that the client consents to receiving treatment services via interactive videoconferencing.~~
- (I) The risks to be communicated to the client pursuant to paragraph (H) of this rule must address at a minimum the following:
- (1) Clinical aspects of receiving treatment services via interactive videoconferencing;
 - (2) Security considerations when receiving treatment services via interactive videoconferencing; and,
 - (3) Confidentiality for individual and group counseling.
- (J) It is the responsibility of the provider, to the extent possible, to assure contractually that any entity or individuals involved in the transmission of the information guarantee that the confidentiality of the information is protected. When the client chooses to utilize videoconferencing equipment at a client site that is not arranged for by the provider, e.g., at their home or that of a family or friend, the provider is not responsible for any breach of confidentiality caused by individuals present at the client site.
- (K) Providers shall have a contingency plan for providing treatment services to clients when technical problems occur during the provision of services via interactive videoconferencing.
- (L) Providers shall maintain, at a minimum, the following local resource information. For purposes of this rule, local means the area where the client indicates they reside and where they are receiving services as indicated in paragraph (P) of this rule.
- (1) The local suicide prevention hotline if available or national suicide prevention hotline.
 - (2) Contact information for the local police and fire departments.
- The provider shall provide the client ~~written~~ information on how to access assistance in a crisis, including one caused by equipment malfunction or failure.
- (M) For the purposes of meeting the requirements of paragraph (L) of this rule, providers shall require that the client provide the street address and city where they are receiving services prior to the first session utilizing interactive videoconferencing and update the address whenever the client site changes.
- (N) It is the responsibility of the provider to assure that equipment meets standards sufficient to:
- (1) To the extent possible, assure ~~Assure~~ confidentiality of communication;

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- (2) Provide for interactive videoconferencing communication between the practitioner and the client; and
 - (3) Assure videoconferencing picture and/or audio are sufficient to assure real-time interaction between the client and the provider and to assure the quality of the service provided.
- (O) The client site must also have a person available who is familiar with the operation of the videoconferencing equipment in the event of a problem with the operation.

If the client chooses to utilize videoconferencing equipment at a client site that is not arranged for by the provider site, e.g., at their home or that of a family or friend, the provider is only responsible for assuring the equipment standards at the originating site.

(P) All services provided by interactive videoconferencing shall:

- (1) Begin with the verification of the client through a name and password or personal identification number when treatment service are being provided with a client (s), and
- (2) Be provided, to the greatest extent possible, in accordance with the Health Insurance Portability and Accountability Act (HIPAA) privacy and security rules, the "notification of enforcement discretion for telehealth remote communications during the COVID-19 nationwide public health emergency" (Notification) issued by the office for civil rights at the department of health and human services, and 42 C.F.R. Part 2, and any subsequent notification or guidance issued by SAMHSA regarding 42 C.F.R. Part 2 during the COVID-19 nationwide public health emergency.

(Q) The specific requirements of initial face-to-face visits to establish services through interactive videoconferencing for the following services are suspended:

(1) General services as defined in rule 5122-29-03 of the Administrative Code; and,

(2) Intensive home based treatment service as defined in rule 5122-29-28 of the Administrative Code.

~~(Q)~~ (R) Provider must have a physical location in Ohio or have access to a physical location in Ohio where individuals may opt to receive services that are being provided by interactive videoconferencing.

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Certification

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Date

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