TELEPSYCHIATRY CHECKLIST – MODIFIED PER CORONAVIRUS UPDATES (3/31/20)

- □ I have reviewed my state's law on telemedicine, including, but not limited to:
  - □ In-person examination requirements
  - □ Prescribing requirements

  3/19/20: States may be relaxing some of these requirements given the need for individuals to stay home.

- □ If a patient will be treated in a different state:
  - □ Licensure
    - □ I am licensed in the patient's state, all state requirements are met (CME requirements, PMP requirements, etc...)

      OR

    - □ A license in that state is not required (3/9/20)

    3/19/20: States MAY be relaxing licensure requirements, but it may be only in limited circumstances, such as only to treat patients in a hospital, or only if actually treating the coronavirus.

  - □ Law
    - □ I have reviewed the law on telemedicine in the patient's state, including, but not limited to:
      - □ In-person examination requirements
      - □ Prescribing requirements

    3/19/20: States have been slow to offer licensure waivers and even slower to address state treatment laws. The risk management advice is to do what you can. For example, a state may require written informed consent for the use of telemedicine. That may or may not be possible; if not possible, providers can obtain verbal consent and document that verbal consent to telemedicine.

- □ I am using HIPAA-compliant equipment
  - □ If the equipment vendor stores any patient information, I have a Business Associate Agreement from the vendor

  3/19/20: The federal government has exercised "its enforcement discretion and will waive potential penalties against health care providers that serve patients through everyday communication technologies during the COVID-19 nationwide public health emergency. This exercise of discretion applies to widely available communication apps, such as FaceTime or Skype, when used in good faith for any telehealth treatment or diagnostic purpose, regardless of whether the telehealth service is directly related to COVID-19."

https://www.hhs.gov/about/news/2020/03/17/ocr-announces-notification-of-enforcement-discretion-for-telehealth-remote-communications-during-the-covid-19.html

□ I understand that services are considered rendered at the patient's location, not my location

□ I understand that the standard of care for telepsychiatry services is the same as for in-person visits

3/19/20: This is still true. So, for example, just as you need to get a patient in crisis to the hospital from your office, you would need to be able to call emergency services if a remotely treated patient is in crisis. Be sure to know the patient's exact location at the beginning of each session.

□ I understand that this treatment modality is not appropriate for all patients and I engage in careful patient selection

□ I re-evaluate periodically the appropriateness of treatment

□ I require patient identification at the first session

□ I confirm patient location at the start of every session

□ I obtain informed consent to the use of telepsychiatry, in addition to informed consent to treatment

3/19/20: if written informed consent is not possible, at least document consent obtained verbally.

□ If I am prescribing, I am complying with:

- □ State law in my state and, if different, state law in the patient's state
- □ Federal law, if prescribing controlled substances, by:
  - □ Having a DEA registration in my state as well as each patient's state (if different from my state)

    3/31/20: The DEA has temporarily waived the requirement to have a DEA registration in the patient's state.

  - □ Seeing patient one time in person prior to prescribing controlled substances

    OR

    - □ Qualifying for one of the DEA's very limited exceptions to the one in-person visit rule

3/19/20: The DEA has reminded providers of the public health emergency exception to the one in-person visit prior to prescribing controlled substances.
www.deadiversion.usdoj.gov/coronavirus/html

□ I provide appropriate patient monitoring, including follow-up on testing ordered

□ I provide appropriate follow-up care

□ I maintain appropriate documentation of all sessions

□ I have contingency plans for:

- □ Clinical emergencies – including contact information for local authorities in the event of a crisis
- □ Technical failures

3/19/20: An example would be continuing the interrupted video session by telephone.

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