alameda county behavioral health
MENTAL HEALTH & SUBSTANCE USE SERVICES

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ACBH FAQs: Clinical Documentation Updates During the COVID-19 Nationwide Public Health Emergency

June 1, 2020

All of these FAQs apply to both Mental Health (MH) and Substance Use Disorder (SUD) Services during the COVID emergency period, unless otherwise indicated.

For Questions & Technical Assistance, contact: QATA@ACgov.org

Principles:
ACBH recognizes that COVID-19 presents a myriad of challenges. ACBH is working collaboratively with Department of Healthcare Services (DHCS), providers, and other stakeholders to ensure we continue to protect access to care and services, while also minimizing COVID-19 spread.

Q1: May providers claim for telephone and telehealth services?
Yes, both SMHS and SUD services may be provided via telehealth. Please refer to the following ACBH and DHCS resources:
1. Leveraging Technology to Meet Client Needs – New Guidance from DHHS-OCR (issued on March 18, 2020)
2. Leveraging Technology to Meet Client Needs – Non-Licensed Staff Update (issued on March 19, 2020)
3. Specific guidance for providers regarding HIPAA and telehealth is available from the external resources listed on DHCS' Telehealth Resources page.

Q2: May providers claim for services provided via text messaging to clients during the COVID-19 emergency?
No. We have now received updated guidance from DHCS that there is no claiming for texting clients at this time. Texting is only allowed for scheduling appointments with clients. DHCS Legal is vetting any additional use of texting.

Q3: May providers claim for services provided via email messaging to clients during the COVID-19 emergency?
No. At this time, DHCS has not given permission for claiming for email communication. When a beneficiary consents to the use of email communication, and that consent has been documented, counties may send SMHS and SUD notices via email. Providers must remain HIPAA and 42 CFR Part 2 compliant.

Q4: May a LPHA provider whose license has expired continue to provide services if they are unable to renew their credential with their licensing board at this time?
Yes. for additional information, please see below:
1. *Order Waiving License Renewal Requirements: https://www.dca.ca.gov/licensees/continuing_ed.pdf*
2. *Order Waiving License Reactivation or Restoration Requirements: https://www.dca.ca.gov/licensees/reinstate_licensure.pdf*

Q5: Will late signatures (Informing Materials Consents, Client Plan and Medication Consents) be accepted as compliant for claiming purposes if verbal consent is provided?

Yes, for those documents listed above—but not for Release of Information forms (ROI). In the session's progress note, explain specifically what information was shared with the client, that the client verbally consented to the information provided, and that due to the COVID-19 emergency the client was unable to meet in-person and sign the document. As well, during this public health crisis ACBH has temporarily suspended the requirement for client signature for receipt of psychiatric medication during this time of emergency (Cal. Code. Regs. tit. 9 § 852).

Q6. May the platform DocuSign be utilized to obtain electronic signatures?

Yes, during the COVID emergency, HIPAA-compliant electronic signature platforms such as DocuSign may be used for both staff and client electronic signatures. However, a Business Associate Agreement must be in place with the electronic signature vendor in order to utilize HIPAA-compliant platforms.

Q7. When the emergency ends, does ACBH expect that providers will go back and obtain treatment or client plan signatures for clients that are still in treatment?

No, Providers are not expected to get signatures from beneficiaries who receive Specialty Mental Health Services and SUD services during the time period of the COVID-19 public health emergency. When the public emergency ends, providers shall resume compliance with all documentation and signature requirements and update all clinical records on a "go-forward" basis.

Q8: Can the client provide verbal consent for a Release of Information (ROI)?

No. The U.S. Department of Health and Human Services has not waived the signature requirements of written authorizations for client releases of information. You may discuss the release of information with the client and mail the forms to them for their signature (it is suggested you enclose a self-addressed stamped return envelope as well). A copy, fax, or photo sent by email or text will be acceptable for a signed ROI. A witness signature is not required on the ROI form.

Q9: (MH only) Under what circumstances could a provider disclose PHI to a family member, relative, close friend, or other person identified by the individual without an ROI?

A provider may disclose PHI to a family member, relative, close friend, or other person identified by the MH (not SUD) client as responsible for their care without an ROI under the following circumstances when the client is NOT present:

1. *The family member, relative, close friend, or other person has already been identified by the client as responsible for their care;*
2. *The PHI is used to notify or assist in the notification of (i.e. identifying/locating) this family member/person responsible for the client's care of the client's location, general condition or death;*
3. *The provider determines in their professional judgment that the disclosure is in the best interest of the client; AND*

4. *The provider discloses ONLY the PHI directly relevant to the person's involvement with the client's care or payment related to the client's care or for notification (i.e. minimum necessary).*
5. *For example, the provider may infer that it is in the client's best interest to allow the other person to act on behalf of the client in picking up filled prescriptions, medical supplies, or other similar forms of PHI*
6. *See 45 CFR 164.510(b)(3)). https://www.law.cornell.edu/cfr/text/45/164.510*

Q10: If a provider has lost contact with the client during the COVID-19 emergency, may they contact a family member (or another person) without a signed Release of Information in order to locate the client?
*Yes, but **only if they do not disclose any PHI** to the person with whom they are speaking. This includes **NOT** disclosing that the caller works for a behavioral health services provider.*

Q11: Has ACBH issued any additional guidance on Telehealth and HIPAA privacy and security?
Yes, the Alameda County Health Services Agency Office of Compliance Services issued the following guidance:
1. *Remote Work and HIPAA Privacy and Security: March 2020 COVID-10 Remote Work and HIPAA Privacy & Security Guidelines for HCSA Staff.*
2. *Telehealth and HIPAA Privacy and Security: March 2020 FAQs: COVID-19 Telehealth and HIPAA Privacy & Security*

Q12: Are there any exceptions to obtaining client written consent before disclosing Protected Health Information (PHI)?
1. *Specialty Mental Health Services (SMHS): Yes, a MH provider may disclose PHI to another HIPAA-covered health care professional (mental and/or physical health) for the purpose of treatment, and for health care operations activities including care coordination (e.g. referrals) for mutual clients*
2. *Substance Use Disorder Services (SUD): Yes, a SUD provider may disclose PHI without written consent to medical personnel in order to treat a bona fide medical emergency based on the SUD provider's discretion. However, this provision may NOT be used to override a client's objection to disclosure.*
3. *(See SAMHSA Guidance: COVID 19 Public Health Emergency Response and 42 CFR Part 2 Guidance.)*

Q13: During the COVID-19 emergency many of our clients desperately need case management services to link them with critical community services. If I am unable to meet with the client in person to obtain a written ROI, how can I advocate on their behalf for services that do not meet the above exceptions?
If you are speaking with the client on the telephone or via telehealth, you may ask their consent to add another service provider to a multiparty conference call. An ROI is not required in this situation because the client is on the original phone call, implying consent.

Q14: When providing Telehealth services, do I use the face-to-face or non-face-to-face codes?

Telehealth services, including for assessments such as CANS and ANSA, will be coded as face-to-face service. Please note, that location code 20 is indicated in the medical record when claiming for telehealth services.

Q15: Are written Telehealth Consents required before Telehealth Services begin?
No, during the emergency period, the requirement for written or verbal consent is suspended for Telehealth Services. The requirement for written consents for Telehealth Services will resume after the emergency ends. (See Executive Order N-43-20.)

Q16: Is there an ACBH required Telehealth Consent form to use?
No. ACBH is in the process of developing a Telehealth Consent Form for future use.

Q17: During the COVID-19 emergency has there been any changes to the NOABD and State Fair Hearing Appeal process?
Yes, from March 1, 2020 through the conclusion of the COVID-19 emergency clients will have 240 days (rather than 120 days) to file for a State Fair Hearing when their Appeal is denied by ACBH. When NOABD's are issued to the client—an additional insert must be added. See: ACBH Grievance System

Q18: Where can I find COVID testing resources?
http://www.acphd.org/2019-ncov/testing.aspx
http://www.acphd.org/media/571443/alameda-county-covid-testing.pdf

Q19: (SUD only) Can ACBH clarify that assessment and medical necessity and level of care may also be done by telephone for Drug Medi-Cal Organized Delivery System (DMC-ODS) providers
Yes. In anticipation of CMS' approval of DHCS's 1135 Waiver request, beginning on March 1, 2020 and for the duration of the emergency, the initial assessment of the beneficiary may be performed by telephone by an LPHA with the appropriate scope of practice.

Q20: (SUD only) Can the consultation between an LPHA and counselor that is needed for level of care determinations also be done by Telehealth)?
Yes, the LPHA can review the assessment with the counselor through a face-to-face telehealth discussion when establishing the SUD diagnosis, medical necessity, and level of care assignment.

Q21: (SUD only) Can individual counseling services be provided via telehealth and telephone?
Yes. Individual Counseling may be provided via telehealth by ACBH SUD providers.

Q22: Can group counseling services be conducted via telehealth and telephone? If so, does the 12-client limit remain in place?
Yes. Group Counseling services may be provided for SUD and Specialty Mental Health Services and the 12-client group size limit still applies for SUD.

Q23: How can providers ensure their patients do not run out of medications?

1. *Medi-Cal allows patients to fill up to 100 days of non-controlled medications. Narcotic treatment programs can receive exemptions to provide take-home medications for patients who are sick or quarantined. See DHCS COVID-19 FAQ: Narcotic Treatment Programs for more detail. Patients receiving buprenorphine products can currently receive 30-day supplies on Medi-Cal.*
2. *Utilization limits on quantity, frequency, and duration of medications may be waived by means of an approved Treatment Authorization Request (TAR) if there is a documented medical necessity to do so. See DHCS pharmacy guidance.*

Q24: Can controlled substances be prescribed over the phone?
This is a federal, not state, issue. SAMHSA released guidance that an initial evaluation by telehealth or telephone is allowed for buprenorphine during the emergency. The DEA COVID-19 website addresses all other controlled substances, which include sedatives and stimulants, under telemedicine. Practitioners can start a new controlled medication prescription by telephone for a patient who is already under their care by telephone. However, if a patient is new to the provider, controlled medications cannot be provided by telephone (other than buprenorphine). For patients new to the provider, prescribing controlled medications can only be done by live video or telemedicine.

Q25: Does ACBH have specific expectations for documentation of services delivered by telephone or telehealth?
Providers may indicate that telephone and telehealth services were provided in lieu of in-person services due to COVID-19 social distancing practices and continue following current documentation requirements.

Q26: (SUD only) Can DHCS waive the requirement that SUD treatment programs maintain a minimum of 30% licensed staff?
No, pursuant to California Code of Regulations Title 9, Chapter 8, Section 13010, at least 30% of staff providing counseling services in all AOD programs shall be licensed or certified.

Q27: Are facilities able to provide treatment or recovery services outside the facility service location if there are concerns about providing treatment at the location due to COVID-19?
In some circumstances, DHCS shall consider and may allow facilities to provide treatment or recovery services off-site for any concerns related to COVID-19. Providers should contact their Licensing Analyst for questions. See COVID-19 Response website for information notices for treatment facilities.

Q28: (MH only) Can a licensed mental health professional provide direction to a Therapeutic Foster Care (TFC) parent through telehealth rather than in person?
Yes. Telehealth and telephone may be used by licensed mental health professionals to provide direction to TFC parents during the emergency.

Q29: (SUD only) During the emergency, are DMC-ODS providers still required to discharge beneficiaries if there is a lapse in treatment for more than 30 days?

Yes. DMC-ODS providers are required to discharge beneficiaries when there is a lapse in treatment for more than 30 days, although beneficiaries can be readmitted. Beneficiaries should be reassessed for readmission when ready to resume treatment. Note: the two non-continuous residential stay limit still applies in DMC-ODS (1115 Waiver, Standard Terms and Condition (STC) 138-Residential Treatment).

Q30: (MH only) Is DHCS waiving the 23-hour maximum length of stay in a Crisis Stabilization Unit (CSU) during the emergency?
No. DHCS is not waiving the maximum length of stay requirement in a CSU, specified in California Code of Regulations, Title 9, Section 1810.210. However, in cases where a beneficiary remains in a CSU for more than 23 hours, the provider must be able to present evidence upon request by DHCS of good faith efforts they have made to transition the beneficiary out of the CSU to their residence or to an appropriate placement, including the reason(s) why that has not been possible.

Q31: (MH only) Are psychiatric health facilities (PHF) and CSUs allowed to offer services outside of the licensed part of the facility at locations that are already Medi-Cal certified for outpatient services?
DHCS will review requests regarding PHF licensing on a case-by-case basis (LCDQuestions@dhcs.ca.gov). For Medi-Cal Certification related questions, including those pertaining to CSUs, DHCS will review requests on a case-by-case basis (DMHCertification@dhcs.ca.gov).

Q32: (MH only) DHCS requests proof that there is a psychiatrist and licensed person (LCSW, LMFT) on the PHF unit each day, which is later audited for the hours of attendance. May psychiatrists be available by telehealth, off-site? And can this obligation be addressed by having two licensed staff at a time?
DHCS will review requests regarding PHF licensing requirements on a case-by-case basis (LCDQuestions@dhcs.ca.gov).

Q33: (SUD only) During the emergency, is it possible for DMC-ODS to use non-registered or non-certified staff with lived experience working under the supervision of licensed and/or certified staff to provide services in Recovery Support and Case Management?
The current requirements for providing Recovery Support and Case Management services have not changed during the public health emergency.

Q34: (SUD only) During the emergency, may Alcohol or Other Drug (AOD) counselors to provide services after their certification expires, while waiting for the renewal?
As outlined in MHSUDS IN 18-056, if an AOD counselor fails to submit a renewal application prior to the expiration of their certification, the counselor may not provide counseling services until their certification is renewed. But, if an AOD counselor submits a renewal application prior to the expiration of their license, the counselor may continue to provide counseling services unless the certifying organization denies the renewal application. If the counselor's certification is denied, any service provided after the expiration date of the counselor's certification shall not be reimbursed with State or federal funds.

Q35: How do providers access federal grant opportunities?

1. *Providers should stay updated by regularly checking the federal websites for grant opportunities. DHCS has a web page that reflects a compilation of websites that may be followed to search for grant funding opportunities. These links can provide more information on the following opportunities: provider relief fund; Grants.gov; telehealth; small business loans; and SAMHSA grant announcements*
2. *The Small Business Administration recently issued two interim final rules to supplement previously posted interim final rules on the Paycheck Protection Program (PPP) with additional guidance regarding disbursements, as well as guidance on the amount of PPP loans that any single corporate group may receive and criteria for non-bank lender participation in the PPP.*

Q36: Where are up-to-date resources on COVID-19?

1. *California Department of Public Health – COVID-19 Updates CDPH*
2. *Gathering/Meeting Guidance*
3. *CDC COVID-19 webpage*
4. *Guidance for the Elderly*
5. *Guidance for Employers*
6. *What to do if you are sick*
7. *Guidance for Workplace/School/Home Document*
8. *Steps to Prevent Illness*
9. *Guidance for use of Certain Industrial Respirators by Health Care Personnel Medicaid.gov, COVID-19 resource page*
10. *CMS: Emergency Medical Treatment and Labor Act (EMTALA) Requirements and Implications*
11. *Governor Newsom's 3/12/20 Order*
12. *CDPH: For Individuals with Access and Functional Needs*

Q37: Does DHCS provide an outreach letter to Medi-Cal Beneficiaries regarding COVID-19?

Yes, see https://www.dhcs.ca.gov/Documents/Beneficiary-Outreach-Letter.pdf
This is an excellent resource to provide to clients during the COVID emergency.

Q38: Are there COVID resources for Spanish speaking individuals?

Yes. MUA Publishes a COVID19 Resource Guide for the Immigrant Community
https://bit.ly/MUAGuiaCOVID19

Q39: Are there support resources for staff and providers during the COVID emergency?

Yes. See local staff COVID support resources below.

1. *In collaboration with Alameda County Psychological Association (ACPA), Crisis Support Services of Alameda County (CSS) is rolling out the Staying Strong Against COVID19 Support Line for Bay Area Workers in Healthcare Settings. It's Okay to Vent: 510-420-3222*
2. *The COVID19 Pro Bono Counseling Project is an organization offering free video and phone therapy to front-line healthcare workers in the Bay Area during the COVID19 crisis. See:*
   https://sites.google.com/view/cpbc-proj/home and
   https://www.youtube.com/watch?v=5rgI5T1Vxgo&feature=youtu.be

Q40: How should behavioral health programs reduce transmission of COVID-19?
The CDC has provided interim infection prevention and control recommendations in health care settings. As well, all providers are now required to wear facial coverings inside their programs and sites.

Q41: How should behavioral health providers manage clients presenting with upper respiratory symptoms?
ACBH strongly encourages use of telehealth or telephone services to minimize infection spread. Programs should follow infection prevention and control recommendations in health care settings published by the CDC (please see Q35 for more details).

Q42: When should programs refer a patient to medical care?
See CDC guidelines for health care professionals on when patients with suspected COVID-19 should seek medical care.

Q43: What should facilities do in the event a client is diagnosed with COVID-19?

1. *If a client of an outpatient facility is confirmed to be positive for COVID-19, the client should be instructed to stay home. As much as is possible services should be provided by telephone or telehealth. Residential or inpatient facilities with a patient or resident diagnosed with COVID-19 should ensure the patient is isolated in a room, has a mask for use when leaving the room, and should contact their local public health department for guidance.*
2. *It is the duty of every health care provider, knowing of or in attendance on a case or suspected case of any of the diseases to report to the local health officer (17 CCR § 2500 (b)). For COVID-19, immediate reporting by phone (17 CCR § 2500 (b)).*
3. *Inpatient and residential facilities must also report to DHCS, within one (1) working day, any events identified in California Code of Regulations Title 9 Chapter 5 Section 10561(b)(1), which would include cases of communicable diseases such as COVID-19.*

Q44: If a former client is later found to have been diagnosed with COVID-19, what action should be taken?

1. *Staff should inform individuals of possible exposure but must do so in a way that protects and maintains the other clients' confidentiality as required by law. Clients exposed to a person with confirmed COVID-19 should refer to CDC guidance on how to address their potential exposure, as recommendations are evolving over time.*
2. *It is the duty of every health care provider, knowing of or in attendance on a case or suspected case of any of the diseases to report to the local health officer (17 CCR § 2500 (b)). For COVID-19, immediate reporting by phone (17 CCR § 2500 (b)).*
3. *Inpatient and residential facilities must also report to DHCS, within one (1) working day, any events identified in California Code of Regulations Title 9 Chapter 5 Section 10561(b)(1), which would include cases of communicable diseases such as COVID- 19.*

Q45: What should facilities do in the event a staff member is diagnosed with COVID-19?

1. *Staff members who have symptoms of a respiratory illness should stay home until symptoms completely resolve. Staff members with confirmed COVID-19 infection, or who are under investigation (testing pending), should stay home and the facility should contact their local public health department for guidance.*
2. *It is the duty of every health care provider, knowing of or in attendance on a case or suspected case of any of the diseases to report to the local health officer (17 CCR § 2500 (b)). For COVID-19, immediate reporting by phone (17 CCR § 2500 (b)).*
3. *Inpatient and residential facilities must also report to DHCS, within one (1) working day, any events identified in California Code of Regulations Title 9 Chapter 5 Section 10561(b)(1), which would include cases of communicable diseases such as COVID- 19.*

Q46: What else can behavioral health programs do to prepare for or respond to COVID-19?

DHCS encourages providers to adhere to the CDC's and CDPH's recommendations to prepare for COVID-19.

Q47: How can behavioral health providers obtain personal protective equipment (PPE)?

Resources on infection mitigation in behavioral health facilities are as follows:

1. *California Department of Public Health (CDPH) Health Care System Mitigation Playbook which provides helpful information to medical facilities on infection control and mitigation, and has useful information for BH facilities as well.*
2. *ASAM's, Infection Mitigation in Residential Treatment Facilities which provides helpful information on the same, designed for SUD residential treatment.*
3. *National Council on Behavioral Health COVID-19 guidance for behavioral health facilities*