



Preparing for What's Next - To Do List

JULY 2021

NOTE: We are operating in uncharted territory and there are very few clear answers currently. This is a very fluid situation and the risk management recommendations below may change. This document will be updated on our FAQ page (www.PRMS.com/FAQ), and should be checked regularly. Nothing presented here is legal advice.

While we do not know exactly what will happen next in terms of the country re-emerging from the COVID-19 Public Health Emergency (PHE), psychiatrists should be prepared to address at least the following issues:

1. RE-OPENING YOUR PSYCHIATRIC OFFICE

In addition to your local community guidelines, review guidelines and best practices from the AMA, MGMA (Medical Group Management Association), CMS, and others.

Tip: Links to these resources are in our FAQs.

2. FOR PATIENTS THAT REMAINED LOCAL, DETERMINE WHETHER THEY NEED TO BE SEEN IN-PERSON, REMOTELY, OR A COMBINATION OF BOTH

This determination should be based on your assessment of the patients' clinical needs, not on the patients' preference for telepsychiatry.

3. FOR PATIENTS CURRENTLY OUT-OF-STATE, DETERMINE IF THEY HAVE IMMINENT PLANS TO RETURN TO YOUR AREA

Manage patient expectations – let them know that the rules may be changing soon and you may not be allowed by law to continue to treat remotely.

4. TRACK STATE LICENSURE WAIVERS IN YOUR PATIENTS' STATES

They may expire on specific dates, or be extended, or withdrawn at any point.

Tip: PRMS will continue to track these licensure waivers in our FAQs.

5. ONCE LICENSURE WAIVERS HAVE EXPIRED IN STATES WHERE YOUR PATIENTS ARE LOCATED, DETERMINE WHAT IS NEEDED TO CONTINUE TO TREAT YOUR PATIENT VIA TELEMEDICINE

States may require full licensure, a telemedicine registration, or there may be no requirements other

than licensure in your own state to treat existing patients.

PRMS will help our insureds find this information.

6. IF AFTER THE WAIVER ENDS, YOU ARE ALLOWED TO CONTINUE TO SEE THE OUT-OF-STATE PATIENT, DETERMINE AND FOLLOW THAT STATE'S STANDARD TELEMEDICINE RULES THAT WILL LIKELY BE BACK IN EFFECT

States can have laws addressing requirements for in-person visits, informed consent, documentation, etc. If your patient's state does not have such laws, follow the telemedicine guidelines developed by the Federation of State Medical Boards.

PRMS will help our insureds find this state information.

7. IF AFTER THE WAIVER ENDS, YOU ARE NOT ABLE TO CONTINUE TREATING THE OUT-OF-STATE PATIENT (I.E. FULL LICENSURE IS REQUIRED), TERMINATE TREATMENT

Although this should be done quickly, do not abandon your patient– consider giving 30 days' notice.

8. IF AFTER THE WAIVER ENDS YOU WANT TO CONTINUE TREATING YOUR PATIENT REMOTELY AND HAVE DETERMINED THAT YOU ARE IN COMPLIANCE WITH LICENSING REQUIREMENTS, ENSURE YOU ARE ALSO IN COMPLIANCE WITH THE PATIENT'S STATE'S PRESCRIBING LAWS

There may be specific state laws, particularly for controlled substances.

You should also register with and use, to the extent possible, the state prescribing drug monitoring program.

9. IF YOU ARE PRESCRIBING CONTROLLED SUBSTANCES FOR OUT-OF-STATE PATIENTS, BE ALERT TO WHEN HHS DECLARES THE END TO THE PHE

The current federal COVID PHE is "likely" to be renewed every 90 days throughout 2021. We should get 60 days notice prior to its expiration.

Tip: PRMS will be tracking this in our FAQs.

When the PHE ends, two currently suspended federal requirements for prescribing controlled substances will likely go back into effect.

First, the requirement that there be an in-person visit prior to prescribing controlled substances will likely go back into effect. It is unclear whether the DEA will require those who began treating patients during the PHE to have an in-person visit after the PHE expires in order to continue prescribing controlled substances to these patients.

Second, the requirement to have a federal DEA registration in the patient's state (as well as in your state) will likely go back into effect.

10. WHEN THE PHE ENDS, EXPECT HHS TO REINSTATE THE REQUIREMENT THAT TELEMEDICINE MUST BE CONDUCTED VIA A HIPAA-COMPLIANT PLATFORM

This generally means that you will need a Business Associate Agreement (BAA) from the vendor.

For additional information, see our Telepsychiatry Checklist at [PRMS.com/FAQ](https://prms.com/FAQ)

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