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South Carolina
Department of Labor, Licensing and Regulation

Board of Chiropractic Examiners



Henry D. McMaster
Governor

Emily H. Farr
Director

PUBLIC HEALTH STATE OF EMERGENCY ORDER 2020-BCE-PH-01

GUIDANCE REGARDING USE OF TELEHEALTH TO PROVIDE CHIROPRACTIC SERVICES DURING PUBLIC HEALTH STATE OF EMERGENCY

WHEREAS, on March 13, 2020, Governor Henry McMaster issued Executive Order No. 2020-08 declaring a public health emergency due to the evolving nature and scope of the public health threat or other risks posed by COVID-19 and the actual and anticipated impacts associated with the same;

WHEREAS, Governor McMaster has issued subsequent Executive Orders in which he has taken additional action to protect the citizens of South Carolina, including Executive Order No. 2020-10, which “authorize[d] and direct[ed] any agency within the undersigned’s Cabinet or any other department within the Executive Branch, as defined by Section 1-30-10 of the South Carolina Code of Laws, as amended, through its respective director or secretary, to waive or ‘suspend provisions of existing regulations prescribing procedures for conduct of state business if strict compliance with the provisions thereof would in any way prevent, hinder, or delay necessary action in coping with the emergency’ [. . .];”

WHEREAS, Section 25-1 of the South Carolina Code of Regulations provides that the Board of Chiropractic Examiners (the “Board”) was created to protect the health, safety, and welfare of the public (*see also* Sections 40-1-10 and 40-1-40 of the South Carolina Code of Laws, as amended);

WHEREAS, the Board protects the public by regulating professionals who practice chiropractic through the administration and enforcement of Chapter 9 of Title 40 of the South Carolina Code of Laws and through any regulations promulgated under the Chapter;

WHEREAS, the COVID-19 pandemic has caused the need for social distancing, which could result in South Carolina patients not receiving necessary chiropractic services;

WHEREAS, the Board finds and concludes that several states expressly authorize chiropractors to engage in the provision of chiropractic services via telehealth, and the provision of services via telehealth will assist both chiropractors and patients in social distancing, which will protect the public health at large;

WHEREAS, the proper use of telehealth can improve access to healthcare and encourage patients to seek treatment, can improve healthcare outcomes by opening up post-care opportunities

for continued communication between provider and patient, and can provide flexible care for patients from remote locations, promoting successful completion of treatment plans; and

WHEREAS, the Board concludes that it is in the best interests of the citizens of South Carolina to allow chiropractic physicians to provide chiropractic services via telehealth for the duration of this Order;

NOW, THEREFORE, for the reasons set forth above, effective immediately, the Board hereby offers the following guidance regarding the practice of chiropractic via telehealth:

1. Chiropractic physicians may provide chiropractic services via telehealth, so long as the following conditions are met:
 - a. The chiropractic physician is licensed in South Carolina, and the patient is located in South Carolina;
 - b. The practice is conducted in compliance with the South Carolina Chiropractic Practice Act (Sections 40-9-10 *et seq.* of the South Carolina Code of Laws, as amended, and Chapter 25 of the South Carolina Code of Regulations, as amended);
 - c. The practice is conducted in compliance with the emergency rules attached to this Order and incorporated herein, to the extent not inconsistent with the South Carolina Chiropractic Practice Act.
2. This Order shall remain in effect for the duration of the declared public health state of emergency, unless otherwise modified, amended, or rescinded by subsequent order.

AND IT IS SO ORDERED.

BOARD OF CHIROPRACTIC EXAMINERS



Beth R. Ehlich, D.C.
Board Chair

April 8, 2020

Emergency Rules for the Practice of Chiropractic Telehealth

(1) “Chiropractic telehealth” means the practice of chiropractic using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening practitioner when a practitioner-patient relationship has been established.

(2) A licensee authorized by this Order (hereinafter “licensee”) may treat a new patient or an established patient, whose appropriateness to be treated via telehealth should be determined on a case-by-case basis, with selections based on licensee’s professional judgment, client preference, technology availability, risks and benefits, and professional standards of care. The licensee shall adhere to the same standard of care as a traditional in-person chiropractic visit and be evaluated according to the standard of care applicable to the licensee’s area of specialty. A failure to conform to the appropriate standard of care is considered unprofessional conduct under the Chiropractic Practice Act.

(3) A licensee who conducts a telehealth appointment with a patient shall generate and maintain chiropractic records in compliance with any applicable state and federal laws, rules, and regulations, including Chapter 9 of Title 40 of the South Carolina Code of Laws, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). Such records shall be accessible to other practitioners and to the patient in a timely fashion when lawfully requested to do so by the patient or by a lawfully designated representative of the patient.

(4) A licensee shall use a platform that is secure and can minimize any risk of exposure or unauthorized release of the patient’s Personal Health Information. The licensee must implement privacy and security safeguards at all points of exposure, including at the originating site and across the transmission medium. The licensee should document the technology used in provision of chiropractic telehealth and be competent in the use of it.

(5) Licensees and their staff should be educated in risk management strategies including data and identity theft, activating wiping and/or disabling programs if devices are lost or stolen, and deleting stored health information on technology devices.

(6) A licensee shall provide to a patient full disclosure of the advantages and limitations of chiropractic telehealth and obtain the informed consent of the patient prior to the provision of telehealth services. If applicable, consent includes consent to be photographed, recorded, or videotaped and consent to the storage of the encounter data. Disclosure should be made as to how long data will be stored. Consent procedures should include a hold harmless clause for medical or other information lost because of technology failures. Patients should be informed of the possibility of failure of the technologies used to provide telehealth services.

(7) If the licensee and patient have not established a prior in-person relationship, the identities of the chiropractic telehealth provider and the patient must be verified. Photo identification is recommended for both the client and all parties who may be involved in the delivery of care to the patient. The photo identification, at minimum, should include the name of

the individual; however, personal information such as address or driver's license number does not need to be shared or revealed. The patient may utilize current means, such as state websites, to verify that the chiropractic telehealth provider is licensed in South Carolina.

(8) Licensees should have procedures in place to address technical, medical, or clinical emergencies. Emergency procedures need to take into account local emergency plans as medical emergencies will most often be handled through the typical chain of emergency procedures such as notifying the client's emergency contact, notifying local physician, or calling local first responders. Alternate methods of communication between both parties should be established prior to providing telehealth services in case of technical complications. It is the responsibility of the provider to inform the client of these procedures; furthermore, it is the responsibility of the provider to have all needed information to activate emergency medical services to the client's physical location if needed at the time the services are being provided. If during the provision of services, the provider feels that the client might be experiencing any medical or clinical complications or emergencies, services will be terminated and the client referred to an appropriate level of service.

(9) A licensee who interacts with a patient via telehealth shall:

- (a) adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing such information upon request of the Board;
- (b) provide an appropriate evaluation prior to diagnosing and/or treating the patient, which need not be done in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care;
- (c) establish a diagnosis through the use of accepted chiropractic practices, which may include patient history, physical examination, and appropriate diagnostic and laboratory testing in conformity with the applicable standard of care;
- (d) ensure the availability of appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care practitioners, to be distributed to other treating health care practitioners only with patient consent and in accordance with applicable law and regulation;
- (e) maintain a complete record of the patient's care according to prevailing chiropractic record standards that reflects an appropriate evaluation of the patient's presenting symptoms; provided that relevant components of the telehealth interaction be documented as with any other encounter;
- (f) maintain the confidentiality of the patient's records and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telehealth shall be held to the same standards of professionalism concerning chiropractic records transfer and communication with other providers, if necessary, as licensees practicing via traditional means; and
- (g) be licensed to practice chiropractic in South Carolina; a licensee who intends to practice chiropractic via telehealth to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards.

(10) The Board does not control billing issues, insurance issues, or employment contracts. Licensees should individually investigate the policies which relate to their practice from multiple perspectives such as reimbursement sources, employers, accreditation agencies, payers, billing and coding requirements for telehealth, and malpractice insurance providers to identify any additional requirements or concerns which may be germane to practice and reimbursement.

(11) Notwithstanding any of the above provisions, the practice of telehealth must be conducted in compliance with the Chiropractic Practice Act and within the scope of the chiropractic license; the Board shall retain all authority to discipline licensees with respect to the practice of telehealth as set forth herein.