

# CORONAVIRUS **RISK ALERT** #3

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We wanted to make sure you were aware of several important changes and updates that have come in just in the past few days:

1. Our Telepsychiatry Checklist<sup>i</sup> has been updated to reflect several governmental changes to the standard / pre-coronavirus rules and expectations.
2. The Office for Civil Rights (OCR)<sup>ii</sup>, the agency responsible for HIPAA enforcement, 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."
3. The DEA has issued a statement<sup>iii</sup> confirming the public health emergency declaration exception to the required one in-person visit prior to prescribing controlled substances under the Controlled Substances Act, as amended by the Ryan Haight Act.
4. The federal government has relaxed several requirements<sup>iv</sup> related to the provision of telemedicine services to federal health program beneficiaries, such as Medicare and Medicaid patients. But these federal waivers relate to government payment only – state law still controls whether a license is required to treat patients in that state.
5. In terms of state licensure waivers, there has been some movement. HOWEVER, of those states issuing licensure waivers to out of state physicians, most have significant limitations, such as only if treating hospitalized patients. For more information, this article from the law firm of Foley & Lardner may be helpful<sup>v</sup>.
6. OCR has forwarded advice on defending against coronavirus-related cyber scams<sup>vi</sup>.

I. <https://www.prms.com/media/2337/telepsychiatry-checklist-3-19-20.pdf>

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

III. <https://www.dea/diversion.usdoj.gov/>

IV. <https://www.phe.gov/emergency/news/healthactions/section1135/Pages/covid19-13March20.aspx>

V. [www.foley.com/en/insights/publications/2020/03/covid-19-states-waive-licensing-requirements](http://www.foley.com/en/insights/publications/2020/03/covid-19-states-waive-licensing-requirements)

VI. <https://www.us-cert.gov/hcas/current-activity/2020/03/06/defending-against-covid-19-cyber-scams>



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