

The following is a message of the California Board of Behavioral Sciences, the licensing agency for Marriage and Family Psychotherapists:

Notice to California Consumers Regarding Psychotherapy on the Internet

The Board of Behavioral Sciences (BBS) would like to make the following recommendations to California consumers who choose to seek therapy or counseling over the Internet.

Individuals who provide psychotherapy or counseling, either in person, by telephone, or over the Internet, are required by law to be licensed. Licensing requirements vary by state. Individuals who provide psychotherapy or counseling to persons in California are required to be licensed in California. Such licensure permits the consumer to pursue recourse against the licensee should the consumer believe that the licensee engaged in unprofessional conduct.

Be a cautious consumer when seeking therapy over the Internet, or by any other means, by doing the following:

- Verify that the practitioner has a current and valid license in the State of California.
- Be sure you understand the fee that you will be charged for the services to be rendered and that you fully understand how and to whom the fee is to be paid.
- Be sure you are satisfied with the methods used to ensure your communications with and by the therapist will be confidential.
- Be sure you are aware of the risks and benefits of doing therapy, over the Internet or by any other means, so you can make an informed choice about the therapy or counseling to be provided.
- According to Business and Professions Code [Section 2290.5](#), prior to the delivery of health care via telemedicine, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient or the patient's legal representative. The informed consent procedure shall ensure that at least all of the following information is given to the patient or the patient's legal representative verbally and in writing:
 - (1) The patient or the patient's legal representative retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the patient or the patient's legal representative would otherwise be entitled.
 - (2) A description of the potential risks, consequences, and benefits of telemedicine.
 - (3) All existing confidentiality protections apply.

(4) All existing laws regarding patient access to medical information and copies of medical records apply.

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

Business and Professions Code Section 2290.5 - Telemedicine; informed consent procedures; written consent statement; compliance; application of section

(a) (1) For the purposes of this section, "telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, and education using interactive audio, video, or data communications. Neither a telephone conversation nor an electronic mail message between a health care practitioner and patient constitutes "telemedicine" for purposes of this section.

(2) For purposes of this section, "interactive" means an audio, video, or data communication involving a real time (synchronous) or near real time (asynchronous) two-way transfer of medical data and information.

(b) For the purposes of this section, "health care practitioner" has the same meaning as "licentiate" as defined in paragraph (2) of subdivision (a) of Section 805.

(c) Prior to the delivery of health care via telemedicine, the health care practitioner who has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient or the patient's legal representative. The informed consent procedure shall ensure that at least all of the following information is given to the patient or the patient's legal representative verbally and in writing:

(1) The patient or the patient's legal representative retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment nor risking the loss or withdrawal of any program benefits to which the patient or the patient's legal representative would otherwise be entitled.

(2) A description of the potential risks, consequences, and benefits of telemedicine.

(3) All existing confidentiality protections apply.

(4) All existing laws regarding patient access to medical information and copies of medical records apply.

(5) Dissemination of any patient identifiable images or information from the telemedicine interaction to researchers or other entities shall not occur without the consent of the patient.

(d) A patient or the patient's legal representative shall sign a written statement prior to the delivery of health care via telemedicine, indicating that the patient or the patient's legal

representative understands the written information provided pursuant to subdivision (a), and that this information has been discussed with the health care practitioner, or his or her designee.

(e) The written consent statement signed by the patient or the patient's legal representative shall become part of the patient's medical record.

(f) The failure of a health care practitioner to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(g) All existing laws regarding surrogate decision making shall apply. For purposes of this section, "surrogate decision making" means any decision made in the practice of medicine by a parent or legal representative for a minor or an incapacitated or incompetent individual.

(h) Except as provided in paragraph (3) of subdivision (c), this section shall not apply when the patient is not directly involved in the telemedicine interaction, for example when one health care practitioner consults with another health care practitioner.

(i) This section shall not apply in an emergency situation in which a patient is unable to give informed consent and the representative of that patient is not available in a timely manner.

(j) This section shall not apply to a patient under the jurisdiction of the Department of Corrections or any other correctional facility.

(k) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

If you believe you have been treated unprofessionally by a Board licensee, either through treatment over the Internet, or by any other means, review our information on [filing complaints](#).