

COVID-19

TELEHEALTH DEVELOPMENTS

Both the state and federal governments have taken action during the COVID-19 pandemic that impacts telehealth practice by SLPs and AUDs. SLPs and AUDs who use telehealth should note these developments and use them to guide your practice.

In addition, ISHA has formed a task force on telehealth and will provide additional guidance as warranted.

State Action

On March 30, 2020, Indiana Governor Eric Holcomb issued Executive Order 20-13. Among its health care provisions is permission for SLPs, PTs, and OTs to use telemedicine under IC 25-1-9.5-6(a), meaning “audio-only telemedicine is not authorized”. In addition, ***this statute requires teleconferencing to be “secure”***. ISHA realizes that telehealth has had established use in Indiana for many years for both SLPs and AUDs without specific statutory and regulatory provisions governing its use. For the duration of this Executive Order, however, the provisions of this Order are controlling.

In addition, on March 19, 2020, Governor Holcomb issued Executive Order 20-05 that required the Family and Social Services Administration (FSSA) to permit services covered by Medicaid to be provided by telehealth.

<https://www.in.gov/gov/2384.htm>

<http://iga.in.gov/legislative/laws/2019/ic/titles/025#25-1-9.5>

Federal Action

The U.S. Government has also taken numerous actions and published significant guidance on HIPAA, FERPA, and telepractice.

The following information has been relayed by ASHA:

Federal Educational Rights and Privacy Act (FERPA)

The U.S. Department of Education released [FERPA & Coronavirus Disease 2019 \(COVID-19\) Frequently Asked Questions](#) (March 2020). This new guidance from the Department on student privacy provides clarity about the requirements of the Federal Educational Rights and Privacy Act (FERPA) as it pertains to COVID-19, as well as a sample informed consent form.

Health Insurance Portability and Accountability Act (HIPAA)

Another privacy law to consider is the Health Insurance Portability and Accountability Act (HIPAA), which addresses the confidentiality of protected health information.

The [Joint Guidance on the Application of FERPA and HIPAA to Student Health Records](#) provides examples of instances in which an educational agency or institution can be subject to both FERPA and HIPAA or HIPAA alone. See information under the Telepractice Considerations section below about the relaxation of HIPAA penalties.

Telepractice Considerations

As a result of the COVID-19 national emergency, the federal government [relaxed HIPAA enforcement of federal penalties](#), providing more flexibilities for health care providers to choose telepractice platforms. While this may seem helpful to many audiologists and SLPs, these loosened regulations do not apply in all situations, may limit reimbursement and coverage, and do not address regulations governed by FERPA. Therefore, it is important to be aware of [state telepractice laws and regulations for licensure and service delivery](#). The [FERPA and Virtual Learning Related Resources](#) (March 2020) document provides a compilation of U.S. Department of Education resources on FERPA and considerations for virtual learning. For more information on telepractice, see ASHA's [Telepractice Resources During COVID-19](#) webpage.

Medicare

In addition to the information relayed by ASHA, CMS has published guidance on the flexibilities that it will provide for the provision of Medicare services.

https://www.cms.gov/files/document/covid-19-physicians-and-practitioners.pdf?fbclid=IwAR1GVcfWEHIN6jtVBO4LJ-WOioV2SU_lug_NITuEqShEQWahpwFTEPscALM

As outlined by ASHA (<https://www.asha.org/News/2020/ASHA-Continues-Seeking-Medicare-Telepractice-Authority/>), although this guidance/rule added certain procedure codes typically billed by SLPs to the telepractice services list, only physicians and other defined practitioners may currently bill these services via telepractice. The rule **does not** authorize SLPs to provide these or other services via telepractice.