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## **Best Practice Guidance for Use of Telehealth with RN Delegation**

This document outlines key information for Oregon assisted living and residential care settings to review when considering the use of telehealth in conjunction with the Oregon State Board of Nursing (OSBN) Division 47 RN Delegation processes and delegation of services, which are carried out by the unregulated assistive person (UAP) by using a synchronistic hybrid didactic teaching model.

This information provides general guidance; OHCA members must always follow all current state and federal OARs and rules when managing resident care plans.

### **Leadership**

Prior to changing nurse delegation practice policies and procedures, organization and community leadership should define their goals and objectives and draft an implementation plan when telehealth practices are going to be used. There are many benefits to the use of telehealth, but the practice must be carefully considered and incorporated into community policies, procedures, training, disclosures, and quality improvement review systems. Community leadership should also focus on upholding privacy and client safety.

Leadership should at a minimum include the administrator, registered nurse, community consultants, regional directors, and/or other nursing personnel.

Organizations that adopt telehealth practices for delegation of service, outlined in OSBN Division 47, should keep in mind it is ultimately at the discretion of the delegating registered nurse to determine whether telehealth is appropriate.

The nurse should work in conjunction with community administration to develop a contingency plan for resident services to be met if the appointed staff is unable to carry out the assignment of delegation.

Organization leaders and the nurse should ensure any staff who engages in telehealth nursing has the knowledge of the telecommunications technology being utilized, including software and equipment.

### **Reasoning**

Telehealth for delegation purposes allows community-based care providers to:

- Increase resident continuity of care through improved transitions and transfers of nurse delegation
- Extend access to care in rural areas and beyond normal hours
- Reduce travel burden on licensed nurses
- Help overcome registered nurse shortages, burnout, and turnover, especially among rural and other underserved populations

- Maintain compliance with nursing monitoring, oversight, and assessment requirements (outlined below) for community-based care communities
  - 411-054-0045 Resident Health Services
  - 411-054-0040 Change of Condition and Monitoring
  - 411-054-0036 Service Plan – General

### **ODHS Direction Through Published Guidance (January 2022)**

Oregon Department of Human Services (ODHS) Safety, Oversight, and Quality (SOQ) has offered the following guidance around the utilization of telehealth in the community-based care setting:

- Initial nurse assessment and plan of care development for a new facility resident or a resident newly identified with a health-related procedure that could potentially be delegated, and subsequent nurse delegation process, for that resident should not be conducted using telehealth nursing.
- Registered nurses should decline to physically assess a resident’s body system or systems (e.g., respiratory, gastrointestinal, cardiovascular, integumentary) and/or a specific body area (e.g., stoma, gastrostomy, jejunostomy, tracheostomy) with telecommunications technology unless the facility has specialized equipment and software designed to transmit the necessary physical data.
- Nurse evaluation of the continued safety of an active delegation or when there are changes to an existing delegation, such as changing from a multi-dose insulin vial to insulin pen, may be conducted successfully using telehealth nursing.
- Transmission of video and images must be in focus with adequate resolution and without shadows or glare. Transmission of sound must be clear and not distorted. Images of wounds or conditions that are visualized during a virtual visit must be saved into the client’s record.
- The nurse who engages in telehealth nursing in the delivery of delegation process services for facility residents holds many responsibilities. These responsibilities encompass the nurse’s knowledge of professional telehealth nursing practice; knowledge of the telecommunications technology necessary to accomplish the telehealth nursing activity; compliance with HIPAA regulations; proceeding only with consent of the resident.
- The nurse can utilize chart review and phone consultation as part of the assessment, but not in lieu of the entire onsite assessment. Delegation and assessment should continue to be a major onsite duty for the registered nurse of the community.

### **OSBN Direction Through Published Guidance (Adopted June 17, 2021)**

Oregon State Board of Nursing (OSBN) has advised the following:

*“Whether one’s practice of nursing occurs through the use of a specific telehealth technology, through more traditional methods, or a combination of both, the individual nurse is responsible to adhere to the same set of scope and standards of practice located in Chapter 851 Division 045 of Oregon’s Nurse Practice Act. In adherence to Chapter 851 Division 045 standards, the nurse is responsible to determine whether their use of the specific telehealth technology in question is within their individual scope of practice.”*

The RN shall determine if education, training, and observation can be done via protected telehealth technology, by using the OSBN’s Scope of Decision-Making Framework interpretive statement.

- [Oregon State Board of Nursing: Practice Statements and FAQs: State of Oregon](#)

## Regulation

Key components in developing policy and procedures around the utilization of telehealth in the implementation of [OSBN 851 Division 47](#) include:

- 1.) The decision whether to delegate a task of nursing care, to hand off delegation and/or rescind delegation is the sole responsibility of the registered nurse based on professional judgement.
- 2.) The registered nurse has the right to refuse to delegate tasks of nursing care to an unregulated assistive person (UAP) if they believe it would be unsafe to delegate this task or is unable to provide adequate supervision.
- 3.) The registered nurse, when delegating to a UAP, is authorizing that person to perform a task of nursing care normally within the registered nurse's scope of practice:
  - a. Understanding the Oregon Administrative Rules adopted by the OSBN in chapter 851 Division 47
  - b. Achieve competence to delegate and supervise by:
    - i. Attending a class on delegation
    - ii. Obtaining one on one instruction
    - iii. Or using other methods to understand delegation
- 4.) The registered nurse may delegate a task of nursing care only to the number of unlicensed persons who will remain competent in performing the task and can be safely supervised by the registered nurse.

The review of residential care and assisted living, [Oregon Administrative Rule 411-054](#), is also advised when drafting policies and practice procedures of any kind. The following are key sections related to delegation:

- 411-054-0005 Definitions
- 411-054-0027 Resident Rights and Protections (b)
- 411-054-0034 Resident Move-In and Evaluation
- 411-054-0036 Service Plan – General
- 411-054-0040 Change of Condition and Monitoring
- 411-054-0045 Resident Health Services

## Security

It is imperative that steps are taken to ensure that the platform utilized for the telehealth component is secured and password-protected to maintain the privacy and rights of the resident. Health care providers who seek additional privacy protections for telehealth while using video communication products should provide such services through technology vendors that are HIPAA-compliant and will enter into HIPAA business associate agreements (BAAs) in connection with the provision of their video communication products.

Some recommendations to increase privacy and security include:

- Telecommunication devices used during the nurse's telehealth nursing encounter must be provided by the facility. The nurse and staff person who participate in telehealth encounters cannot use their own personal device(s) (ODHS requirement).
- The telecommunications device used to capture and transmit registered nurse-initiated delegation processes and activities involving both the resident and the caregiver together must capture both persons in the field of view during the entire encounter. As such, the staff operating the device cannot be the caregiver performing the nursing procedure for the resident (ODHS requirement).
- Devices should be protected with updated antivirus software (for most mobile devices and tables, this can be achieved by having the latest device software update installed).

- Use a secure Wi-Fi to access telehealth services. (i.e. a Wi-Fi that requires a password to access)
- Have a designated encrypted device that is secured for all telehealth utilization.
- Use a platform that has end-to-end encryption.
- Verifying the communication platform/product is HIPAA-compliant and appropriately maintains the security and privacy of the session as required under the Health Insurance Portability and Accountability Act (HIPAA). DO NOT use public-facing communication products, such as Facebook Live, TikTok, Twitch, etc.
- Providing a private room or setting to conduct the services/review. If a private setting is not feasible, provide instructions to use lowered voices, refrain from using the speakerphone function, and/or recommend moving the resident to a reasonable distance from others when using the web-based app.
- Ensure there are safeguards in procedures and systems for emergency backup in case of power or service disruptions and outages, or if evacuation from the community is required.

### **Consumer Disclosure**

Consumer disclosure documents are the written information the community is required to provide to consumers to enhance their understanding of facility costs, services, and operations. Residents and families need to be proactively informed about the use of this type of healthcare service. Assisted and residential care facilities should review all resident/consumer disclosure statements, handbooks, residency agreements, and include information where applicable about the use of telehealth practice in the community.

### **Privacy**

Consent from the resident to utilize telehealth should be obtained prior to engaging in telehealth. Consent forms should address the following:

- Acknowledgement of the process involves the use of electronic communications, including live two-way audio and/or video
- Process will not be the same as a direct or face-to-face visit since parties will not be in the same room
- Outline of permissible web communication products and include a reminder that public-facing products are not acceptable or permissible
- There are potential risks and limitations to the technology, including the information exchanged via a webcam or video app may not be secure and there is a potential for unauthorized access or data interception, equipment failure, interruptions, poor connectivity, an incomplete exchange of information, poor resolution, and/or other technical challenges
- If services are outside of a resident's room, issue a warning that others may be present during the session (e.g., other community associates may be around to operate the video equipment and/or video app), but note all parties present will take reasonable steps to maintain the confidentiality of the information disclosed or obtained during the telehealth session
- Include caveat that despite reasonable efforts to comply with state and federal privacy laws, the complexities with the internet and potential interception of data/intrusions by viruses, the transmission may not be secure and/or could be breached

## **Non-Discrimination**

It is equally imperative that steps be taken to ensure telehealth health is used in a nondiscriminatory manner and services are accessible to those with disabilities and limited English proficiency.

Ensuring access in a nondiscriminatory manner may require the following:

- Using a web-based platform that supports screen reader software or audio-descriptions for individuals who are blind or who have limited vision
- Using a platform that allows a sign-language interpreter to join from a separate location for individuals who are deaf or hearing impaired
- Providing instructions on how to set up the telehealth session in different formats or languages to accommodate those with disabilities for limited English proficiency
- Using a platform that supports the inclusion of a telephone interpreter or video remote interpreter for individuals with limited English proficiency

The U.S. Department of Health and Human Services (HHS) and the U.S. Department of Justice (DOJ) have jointly published guidance on how to conduct telehealth in a nondiscriminatory manner. Additional details from that guidance may be found [here](#).

## **Direct Supervision**

Supports must be available to ensure that both the resident and the UAP are directly supervised. "Directly supervised" means a qualified staff member maintains visual contact with the supervised staff, otherwise, in line of sight of the telehealth device. This may require an additional person to be in the room or a supportive stand to secure the device for proper visualization. Supports must be available to ensure strong verbal communication to ensure that the UAP heard and understood the instructions given by the delegating nurse.

## **Documentation**

It should be noted that use of telehealth does not relieve the nurse from meeting the documentation requirements in OSBN or ODHS administrative rules. Clear, concise, and timely documentation should be noted when the delegating nurse has completed tasks to a UAP through telehealth. It is strongly suggested to note the type of telehealth utilized and the security mechanisms.

Documentation should include:

- The rationale for the decision to utilize telehealth nursing practice
- Each individual component of delegation process that was completed during the telehealth nursing encounter
- The name of the staff operating the equipment during the telehealth nursing encounter

## **Additional Supportive Documents**

- [Telehealth For Providers: What You Need to Know \(cms.gov\)](#)
- [ALF/RCF Skype Fact Sheet \(oregon.gov\)](#)