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School Occupational Therapy and Telehealth V.7

FREQUENTLY ASKED QUESTIONS

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Introduction

The Oregon Department of Education is providing this FAQ in response to questions from school districts related to Occupational Therapy service provision via telehealth. The scope of practice for Occupational Therapists (OTs) is defined by the Oregon Occupational Therapy Licensing Board. The Board has verified the accuracy of the statements included herein as it pertains to Board rules. Nothing in this document should be interpreted as guidance that OTs are permitted to operate outside of their appropriate scope of practice.

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School Occupational Therapy Telehealth FAQs

The Provision of a Free Appropriate Public Education (FAPE)

The Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 require that school districts and programs provide health services if needed by a student to access their education. The requirement for school districts and programs to ensure every student access to a free appropriate education (FAPE) provides a guarantee that every student can learn regardless of ability or health need. The services listed in a child's Individualized Family Service Plan (IFSP), Individual Education Program (IEP), or Section 504 plan must be provided, and teams should work with students and families to determine the methodology for delivering the services. The provision of health services via Telehealth is one methodology that may be utilized to help ensure a FAPE.

The Provision of Telehealth

Can Occupational Therapists provide Telehealth services as part of a child's education?

Yes. The Oregon Occupational Therapy Licensing Board allows for telehealth delivery of services. The Board defines telehealth at OAR 339-010-0006:

1. "Telehealth" is defined as the use of interactive audio and video, in real time telecommunication technology or store-and-forward technology, to deliver health care services when the occupational therapy practitioner and patient/client are not at the same physical location. Its uses include diagnosis, consultation, treatment, prevention, transfer of health or medical data, and continuing education.
2. Telehealth is considered the same as Telepractice for occupational therapy practitioners working in education settings; and Teletherapy and Telerehab in other settings.

In addition, Telehealth services provided by a licensed Occupational Therapist or Certified Occupational Therapist Assistant must follow requirements outlined in OAR 339-010-0006. They include requirements that OTs and COTAs:

- Exercise the same standard of care when providing occupational therapy services via telehealth as with any other mode of delivery of occupational therapy services;
- Provide services consistent with the American Occupational Therapy Association (AOTA) Code of Ethics and Ethical Standards of Practice; and comply with provisions of the Occupational Therapy Practice Act and its regulations.
- Prior to initiation of occupational therapy services, an occupational therapy practitioner shall obtain informed consent of the delivery of service via telehealth from the patient/client. The consent may be verbal, written, or recorded and must be documented in the patient or client's permanent health or education record.
- Secure and maintain the confidentiality of medical information of the patient/client as required by HIPAA and other federal and state and law.
- In making the determination whether an in-person evaluation or intervention are necessary, an occupational therapist shall consider at a minimum:
    - The complexity of the patient's/client's condition;
    - Their own knowledge skills and abilities;

- The patient's/client's context and environment;
- The nature and complexity of the intervention;
- The pragmatic requirements of the practice setting; and
- The capacity and quality of the technological interface.

Please also see the Oregon Occupational Therapy Licensing Board's guides Telehealth and FAQ and Occupational Therapy in Schools for additional information.

Can a Certified Occupational Therapy Assistant (COTA) provide services via telehealth?

Yes, provided they follow rules listed in OAR 339-010-0006. See preceding Q&A.

Can an OT in another state provide services via telehealth to a student in Oregon?

An occupational therapy practitioner can only treat a patient or student in Oregon if they are licensed in Oregon (OAR 339-010-0006).

Can an OT with Oregon licensure provide services via telehealth to an Oregon-enrolled student who is temporarily located in another state? For example, can an OT with Oregon licensure provide services via telehealth to a student at a grandparent's house in Washington during the day while their parents are at work?

No. Current rule does not allow an Oregon-licensed OT to provide services via telehealth to an Oregon-enrolled student who is temporarily located in another state unless they are licensed in the state the patient or student is physically located in. OTs licensed in other states should refer to guidance from the applicable licensing board in that state.

Consent Related to Telehealth

Prior to initiation of occupational therapy services, an occupational therapy practitioner shall obtain informed consent of the delivery of service via telehealth from the patient/client. The consent may be verbal, written, or recorded and must be documented in the patient or client's permanent health or education record (OAR 339-010-0006).

If two OTs are providing services via telehealth to the same student, do they both need to obtain consent?

Yes. Consent is specific to each licensee.

If we cannot get a response to our consent to telehealth, can OTs still provide materials for parents to work on with their child?

Consent is required prior to the initiation of the provision of services via telehealth. This does not prohibit an OT from providing resources to parents outside of direct therapy.

If an OT is uploading learning materials on an online platform, but not meeting with the student or family members (via phone, video conferencing, etc.), is consent required?

Same as above. Consent is required prior to the initiation of the provision of services via telehealth. This does not prohibit an OT from providing resources to parents outside of direct therapy.

What is considered consult in relation to telehealth and would necessitate consent?

As noted previously, the Board definition of Telehealth includes consultation (OAR 339-010-0006(1)). For practitioners working in the school setting, consultation is defined by the Board at OAR 339-010-0050(2)(b)(B): "Consultation is collaborative problem solving with parents, teachers, and other professionals involved in a child's program." Direct intervention is defined at OAR 339-010-0050(2)(b)(A): "Direct Intervention is the therapeutic use of occupations and activities with the child present, individually or in groups."

The Licensee should obtain consent if any of the services that are being provided meet the Board definitions of consultation and/or direct intervention. For further inquiries regarding what activities may or may not be considered consultation, please contact the Board (contact information is provided at the end of the document).

When would a new telehealth consent need to be obtained?

Board rules are not specific regarding this. School districts may choose to adopt policies to support proper and efficient documentation.

Additional Special Education Considerations

If a child is evaluated by our EI/ECSE program/school district and is found eligible for services in general, but an OT is not on the evaluation team, does the OT who will be the service provider need to complete an evaluation prior to offering services?

The answer is YES, the evaluation team cannot recommend OT services IF an OT is NOT part of the evaluation. As a licensed Occupational Therapy practitioner in the state of Oregon, you are required to complete an evaluation prior to treating a patient, per OAR 339-010-0050. An OT must evaluate the child to make a determination if OT services are needed. However, an evaluation DOES NOT have to involve **formal** assessment: the OT could choose to do a file review of prior evaluations/assessments given, conduct a brief observation of the child, or request permission to conduct a formal assessment depending on whether or not there is sufficient data available to determine the need for OT services. The type of "evaluation" conducted for OT services is at the discretion of the OT, not the evaluation team or the administrator.

How are OTs expected to document each goal and student progress? Are there forms available to use for documentation?

In regards to education documentation requirements related to an IEP/IFSP, OAR 581-015-2200(1)(c) requires "a description of how the child's progress toward meeting the annual goals will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided". OTs need to document progress towards meeting the annual goals in a manner consistent with requirements specified in the IEP in alignment with district policy and procedure and Board documentation requirements. OT

documentation requirements are in OAR 339-010-0050(4). The board does not provide forms for documentation or recordkeeping.

How do OTs address the fact that sessions for telepractice are scheduled and students are not showing up?

This situation should be handled in the same way as you would if a student missed an in-person service. It is important to follow district policy, document your efforts, communicate with the student and family, and consult with the IEP/IFSP team if needed.

Privacy Considerations and Virtual Platforms

Are records created by medically licensed staff providing health related services to students pursuant to an IEP/IFSP or Section 504 plan considered education records and thus, subject to FERPA privacy protections? Is this any different with Telehealth?

Family Education Rights and Privacy Act (FERPA) requirements apply to the information contained in student education records. FERPA does not specifically address online settings. It is important to note that records created during the provision of school health services, whether provided in-person or via Telehealth, are considered education records as defined by FERPA at 34 CFR § 99.2.

See Student Privacy Considerations and Remote/Online Education Platforms, Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability Act of 1996 (HIPAA) To Student Records (December 2019 Update), and Guidance for School Officials on Student Health Records, and FERPA Protections for Student Health Records for more information about FERPA, HIPAA, and digital privacy.

Can I use Skype, Zoom, or Google to provide OT telehealth services?

It depends. There are multiple factors to consider when using telehealth technology**.** The Office for Civil Rights (OCR) at the Department of Health and Human Services (HHS) is responsible for enforcing certain regulations issued under the Health Insurance Portability and Accountability Act (HIPAA). Telehealth services provided by "covered entities" are subject to HIPAA requirements for security, transmission, and confidentiality. Compliance with HIPAA requires that covered entities have appropriate administrative, physical, and technical safeguards in place and that they have reasonably implemented those safeguards. See the HIPAA Security Series 101 for more information.

School Based Health Services (SBHS) Medicaid Billing

Can school districts bill Medicaid for school health services (SLP, OT, RN, PT) provided via telehealth?

Yes. An education agency may bill SBHS Medicaid for covered health services provided by a SBHS-recognized provider to a Medicaid-enrolled child or young adult aged birth through 21. The SBHS Medicaid rules for Telehealth can be found at OAR 410-133-0070.

Future Updates

This document will continue to be updated based on:

- Input from educators, students, families, and community partners.
- Updates to state and federal rules and regulations.
- An ongoing review of equity impacts.

Resources for Telehealth Implementation

- Northwest Regional Telehealth Resource Center
- Roadmap for Action Advancing the Adoption of Telehealth in Child Care Centers and Schools to Promote Children's Health and Well-Being
- The National Consortium of Telehealth Resource Centers

Additional Resources

- Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability Act of 1996 (HIPAA) To Student Records (December 2019 Update)
- Guidance for School Officials on Student Health Records, and FERPA Protections for Student Health Records
- American Occupational Therapy Association (AOTA)
- Oregon Occupational Therapy Licensing Board Administrative Rules
- National Board for Certification of Occupational Therapy

Contact Information

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