Factors to Consider in Reopening In-person Psychological Services During the COVID-19 Crisis
(Updated: May 7, 2020)

The COVID-19 crisis has deeply affected all of us – psychologists, patients/clients, family members and indeed, the whole world. The essential concern we all have is for the safety of those we serve, those we love, and those in our communities. As a result, many practitioners have rapidly shifted their practices from in-person to remote care, and made other fundamental changes to their service models. As the prospect of phasing back to in-person care has emerged, it becomes important for psychologists to engage in thoughtful, systematic and ethically-grounded risk management. That is our purpose in providing this advisory.

Kindly be aware that this advisory is not intended to be a statement as to the standard of care, which is evolving and changing as the COVID-19 crisis evolves. In addition, this is risk management advice and is not a statement about your coverage. Our carrier has confirmed that The Trust Professional Liability policy provides coverage for psychologists against whom a complaint or claim from patients or their family members is made related to possible exposure to COVID-19.

It is our view that transitioning back to in-person services during this crisis will add some degree of risk to patients/clients, providers, and the broader community. That does not mean it is prohibited. Rather, our advice is that if telepsychology is available as an alternative, it continues to be a preferred method of service delivery, particularly among high risk categories of patients, staff and psychologists. The risks of resuming in-person services include the risk to the life and health of your patients/clients, staff, and you; but they also include some level of increased risk of malpractice claims, licensing board complaints, and other government investigatory and enforcement processes.

As such, we urge psychologists to engage in a deliberate decision-making process when considering whether and how to return to in-person care. Simply because you can does not mean you must. With some practices and patients, there may be less risk, but if adverse outcomes ensue, it can be more difficult to defend the use of in-person services when there are less risky, though perhaps less preferable alternatives available through telepsychology. If harm occurs, a well-reasoned justification for the decision to resume in-person care becomes important. Possible rationales, for example, might include returning to in-person services for patients/clients with more pressing clinical needs, patients/clients who are not benefitting from remote care or are getting worse, or where logistical problems exist (such as low technology areas where remote services are not feasible because of poor reception or Internet connections).
In addition, our recommendation is that professionals who are considering the resumption of in-person services engage in and carefully document (a) consultation, (b) a thoughtful ethical and risk analysis process, (c) an articulation of the reasoning used, (d) the development of office safety protocols for patients/clients and staff, (e) a thorough informed consent process with patients/clients, with a focus on the risks and benefits of in-person vs. remote care in the context of COVID-19 (see The Trust’s Consent for Returning to In-Person Psychological Services at https://parma.trustinsurance.com/Portals/0/adam/Content/VmfnktHJkkWCYnWQEPEvHA/Link/Sample%20Informed%20Consent%20for%20Returning%20to%20In-Person%20Psychological%20Services.docx), and (f) ongoing monitoring of information and guidance provided by professional and governmental organizations.

We believe there are a number of factors that should be considered in the process of making this decision to resume in-person care. These factors include:

1. A determination by the psychologist that in-person services are actually the best way to provide psychological care to the patient.
2. Each patient’s/client’s and immediate family members’ health risk categories (this does not require a medical assessment, but rather, reasonable knowledge of the Center for Disease Control’s [CDC], and the World Health Organization’s [WHO], identified risk factors).
3. The health risk categories of psychologists and their staff.
4. The COVID-19 infection and fatality rates in the psychologist’s community, if available.
5. The practical capacity of the psychologist to protect patients/clients and staff, as well as themselves, according to CDC, WHO, as well as state and local guidelines. For example, having and requiring patients/clients to use masks and hand sanitizer that is available in the office, scheduling gaps between patients/clients to allow for decontamination between sessions, etc. (see https://www.cdc.gov/coronavirus/2019-ncov/hcp/ambulatory-care-settings.html).
6. Whether local and/or state emergency and shelter-in-place orders are currently in effect (Some states may still only allow in-person care in emergency situations in the initial phase-in period).
7. Whether psychologists are deemed essential or critical workers in their jurisdictions and, even if they are, if are there other issues, like those outlined here, that make face-to-face contact inadvisable.
8. Whether, in the psychologist’s jurisdiction, legal immunities have been put in place, or there has been an official relaxation of professional liability standards (in some jurisdictions, psychologists are considered front-line health providers and may have these kinds of protections).

Please note that the fluid, rapidly evolving nature of the impact and understanding of COVID-19 makes conclusions about how to proceed, at best, tentative. Psychologists are not required to be virologists or epidemiologists: however, as public understandings grow regarding such things as the heightened contagiousness of pre-symptomatic people, psychologists will likely be held to the standard of what a reasonable practitioner in a similar situation knew or should have known, and what that professional would have done.
We know this is a difficult decision to make. Being familiar with helpful resources, consulting, and documenting your rationale, are always good risk management strategies, and now is no different! We hope this guidance helps you to identify and think about how best to make this decision. Please feel free to call The Trust Advocate 800 line at (800) 477-1200 to obtain consultation about questions, concerns or challenging situations you encounter, whether related to COVID-19 or otherwise.

Please visit The Trust’s COVID-19 Resources for Practitioners page for informative guides, downloadable documents, on-demand telepsychology and risk management webinars, and more: https://parma.trustinsurance.com/Resource-Center/COVID-19-Resources

Also, check out our Virtual Webinar Series where our experts tackle the most pressing risk management and telehealth issues facing psychologists during interactive roundtables and chats: https://parma.trustinsurance.com/Workshops-Webinars/Virtual-Webinar-Series