



# Vocational Rehabilitation

Maryland Workers' Compensation Commission

**Welcome to the Maryland Workers'  
Compensation Commission  
Vocational Rehabilitation Training  
Module**

This module will provide you with an overview of the WCC's Vocational Rehabilitation Process, which includes references to key regulations and statutes, definitions of key terms, and required vocational rehabilitation forms. It will provide you with new information and new requirements regarding the application process for new and renewal registrations. It will also provide other useful tips to help you navigate through the system.

Successful completion of viewing this training is required to gain access to the registration process.

# Definition: Health Care Practitioners

Article - Health Occupations §1-901. (a) In this subtitle the following words have the meanings indicated. (b) “Health care practitioner” means an individual who:

(1) Provides behavioral health services to a patient in the State; and (2) Is licensed in the State by: (i) The State Board of Nursing; (ii) The State Board of Physicians; (iii) The State Board of Professional Counselors and Therapists; (iv) The State Board of Examiners of Psychologists; or (v) The State Board of Social Work Examiners.

# WHAT'S NEW:

COMAR 14.09.07.02

Application Procedures for Registration

## B. Automatic Registration

A health care practitioner who is licensed or certified by an applicable State licensing board or commission and is automatically registered with the Commission under this regulation must maintain their license or certificate in good standing in order to maintain automatic registration with the Commission.

*(Certified Rehabilitation Counselors, Certified Disability Management Counselors, Nurses, Physical Therapists, and Occupational Therapists are automatically registered in the Commission's system upon the completed application, proof of licensure or national certification, and registration fee.)*

# Application Procedures for Registration

If the practitioner's license or certificate expires or otherwise ceases to remain in good standing, the practitioner must immediately notify the Support Services Division.

*Support Services Division email address: [wccsupportserv@wcc.state.md.us](mailto:wccsupportserv@wcc.state.md.us)*

# New Requirements for Renewal of Registration COMAR14.09.07.02

## Continuing Education Requirements – Renewal of Registration.

Except for a practitioner automatically registered under §B of this regulation, a provider shall meet the following continuing education requirements for registration renewal:

- A minimum of 12 hours of continuing education credits in workers' compensation related programs within the 3-year period preceding the application for renewal; and
- At least six of the credits specified in §E(3)(a)(i) of this regulation shall be in training or information classes given or approved by the Commission.

# Registration Renewal Requirements

Practitioners who have not acquired a license or certification must provide proof of obtaining 12 continuing education hours of training at the time of renewal.

*( Comment: At the time of renewal, the practitioner will submit the required amount of continuing education credits with the renewal application and registration fee.)*



# **Definitions – COMAR 14.09.07.01**

**Three Definitions to Learn:  
Practitioner, Provider, Enrolled Vocational  
Rehabilitation Organization**

# COMAR 14.09.07.01

## *“Rehabilitation Provider”*

- (a) "Provider" means the enrolled vocational rehabilitation organization that provides vocational rehabilitation services to a claimant through a registered vocational rehabilitation practitioner.
- (b) "Provider" includes the Maryland State Department of Education Division of rehabilitation Services ("DORS").

*“Rehabilitation Practitioner”* means an individual who provides vocational rehabilitation services including:

- (a) A nurse certified by the State Board of Nursing as a nurse case manager;
- (b) A rehabilitation counselor; and
- (c) A vocational evaluator.

# COMAR 14.09.07.01

*“Enrolled vocational rehabilitation organization”*  
means an organization or company that:

- (a) Employs, or has working on its behalf, at least one registered vocational rehabilitation practitioner; and
- (b) Has enrolled with the Commission.

# Practice Tip

## **Practitioner is:**

the person who provides the services to the disabled covered employee

## **Provider is:**

the organization that provides services through a practitioner

## Other Useful Definitions: Plans

*“Retraining plan”* means a plan for providing the disabled covered employee with educational and vocational training and may include on-the-job training.

*“Self-employment plan”* means a business plan for self-employment that identifies the skills, experience and expertise necessary to manage the business, and may include a complete business description, an organization plan, owner/operator qualifications, a marketing plan supported by factual information concerning the demand for products or services, income projections, a sound start-up financial plan, financial resources needed to start the business, and a contingency plan in the event the self-employment plan targets are not met.

# Job Placement

*“Job placement”* means services provided to support the disabled covered employee's search for work including, but not limited to, identifying job leads, arranging interviews, teaching techniques for effective job searches, resume writing, interviewing and job application completion.

# Testing and Assessment

“Functional Capacity Evaluation (FCE)” means the systematic process of assessing an individual's physical capacities and functional abilities and matching human performance levels to the demands of a specific job or work activity or occupation.

“Vocational testing” means standardized interest, aptitude, achievement, and other specific skills tests used to identify areas of interest and aptitudes for various types of work, and compatibilities with different work environments. The types of test may include but are not limited to the Wide Range Achievement Test (WRAT), the General Aptitude Test Battery (GATB), Strong Interest Inventory, the Myers-Briggs Type Indicator, and the Test of Nonverbal Intelligence.

# Rules for Practitioners

## COMAR14.09.07.04C

The vocational rehabilitation practitioner shall exercise independent and professional judgment when performing an assessment or developing a vocational rehabilitation plan.

*But you already knew that didn't you?*



# COMAR 14.09.07.04D- Requirements

At the initial comprehensive assessment, a practitioner shall advise the disabled covered employee that:

- (1) The practitioner's fees are paid by the employer/insurer; and
- (2) The practitioner is an independent professional and shall render an opinion based solely on the facts and evidence in the case.

## COMAR 14.09.07.04 E and F

Subject to any applicable privilege, a practitioner shall notify all parties of any contact with or about the disabled covered employee, whether that contact was in person, in writing, or made electronically.

Unless the disabled covered employee consents in writing, a practitioner may not be present during a medical examination.

## COMAR 14.09.07.04G

With the written consent of the disabled covered employee, a practitioner may seek a healthcare provider's opinion following examination.

***COMMENT:** This provision applies to personal (telephonic, etc.) interactions with the healthcare provider following examination. The release (medical authorization) required under LE 9-709 to 711 is sufficient to obtain any written report or record generated by the healthcare provider concerning the injured body parts.*

# Things to know

14.09.07.05 Standards of Practice for Rehabilitation Counselors and Vocational Evaluators

14.09.07.06 Complaints Against Practitioners

14.09.07.07 Procedures for Hearings on Complaints

Essentially unchanged

# Enrollment of Provider

(COMAR14.09.07.08)

To enroll with the Commission, the provider shall submit:

1. An application on the form prescribed by the Commission completed in accordance with the directions provided; and
2. A complete listing of all registered practitioners employed by the provider.
3. Enrollment is valid for 2 years from the date of issuance.
4. The Commission shall provide each enrolled provider with a notice of renewal and a link to the renewal application 30 days prior to the expiration date of the current enrollment.
5. The enrolled provider shall complete and submit the application for renewal to the Rehabilitation Office by the specified deadline for renewal.
6. The enrolled provider shall update the list of registered practitioners employed by the provider semi-annually.
7. Unless a provider has enrolled with the Commission, a provider may not be eligible for referral under Regulation COMAR 14.09.07.09.

## COMAR 14.09.07.09-Selection of Practitioner

A rehabilitation practitioner shall register with the Commission in accordance with Regulation 14.09.07.02.

1. To be eligible for referral under 14.09.07.09F, a provider shall enroll with the Commission in accordance with Regulation 14.09.07.08.
2. The Commission website shall provide information regarding enrolled providers including the name, address, website address, and telephone number of the provider.
3. A disabled covered employee may obtain vocational rehabilitation services only in accordance with 14.09.07.09

# The Process

# COMAR 14.09.07.09E

## Referral by Agreement or Order

The parties shall attempt to reach agreement on:

- (a) Whether vocational rehabilitation services are appropriate in the case; and
- (b) The registered practitioner to provide the vocational rehabilitation services.

If the parties reach agreement on both the propriety of the services and the practitioner, the parties shall complete the prescribed Commission form indicating their agreement and identifying the selected practitioner.

The parties shall file the VRO6 form (“Agreement on the Propriety of Services & Selection of Practitioner”) with the Commission and send a copy of the form to the selected practitioner.



## Referral by Agreement or Order, Cont'd

Unless the practitioner has received a copy of the VR06 form selecting the practitioner as the individual to provide services, the practitioner may not:

- (a) Contact the disabled covered employee directly or through an agent; or
- (b) Initiate vocational rehabilitation services.

If the parties are unable to agree that vocational rehabilitation services are appropriate, the dispute shall be resolved in accordance with 14.09.07.12.

If the Commission determines that vocational rehabilitation services are appropriate, the parties shall attempt to reach agreement on the identity of the registered practitioner to provide the vocational rehabilitation services.

## **Practice Tip:**

In order to Agree to Voc Services and a Specific Practitioner/Provider, the Insurer's Attorney and Claimant's Attorney must use form VR06 - Agreement On The Propriety Of Services And Selection Of Practitioner

# Referral Without Agreement “Dispute”

- (1) If the parties agree that vocational rehabilitation services are appropriate, or the Commission has determined that services are appropriate, but the parties cannot agree on a practitioner, each party has 5 business days from the date the parties were unable to reach agreement to:
  - (a) Notify the Commission of the dispute; and
  - (b) Identify three registered practitioners and the enrolled provider for whom the practitioner works, if applicable, for consideration.
- 2) Notice of the dispute and identification of the three preferred practitioners and corresponding providers shall be made electronically on a form prescribed by the Commission.

**Practice Tip:** Only Attorneys Can Use Form VR05

# Referral Without Agreement “Dispute,” Cont’d

- (3) Within 5 days of filing the notice of dispute and identification of three preferred practitioners and corresponding providers, each party shall strike two of the practitioners/providers from the opposing party's list and submit those strikes, by close of business, to the opposing party and to the Director electronically.
- (4) The Commission shall select one of the two remaining preferred practitioners and corresponding providers and inform the parties of this selection. All parties are bound by this selection.
- (5) If a party fails to submit three registered practitioners and corresponding providers or to submit two strikes, the Commission shall select a practitioner/provider from the opposing party's list.

**WE ACT IF YOU DON'T**

# Assessment and Reporting

## Comprehensive Vocational Assessment.

- (1) As soon as practicable, a practitioner shall meet with the disabled covered employee and conduct a comprehensive vocational assessment in compliance with Labor and Employment Article, §9-670(d), Annotated Code of Maryland.
- (2) A nurse case manager providing telephonic medical case management may conduct an initial assessment by telephone.

# Assessment and Reporting Cont'd

A comprehensive vocational assessment may include evaluation of the disabled covered employee's:

- (a) Age;
- (b) Education, including information about education level, courses or transcripts, licenses, and certifications or registrations obtained by the disabled covered employee in the past;
- (c) Complete work history, addressing any gaps in employment;
- (d) Transferable skills and experience, whether obtained from prior employment, prior courses and training, prior vocational rehabilitation services or plans, or nonwork related activities such as hobbies and/or volunteer experience;

# Assessment and Reporting Cont'd

- (e) Current physical and mental conditions caused by the injury or occupational disease, and the effect of those conditions on the disabled covered employee's ability to work;
- (f) Pre-existing physical and mental conditions and the effect of those conditions on the disabled covered employee's ability to work;
- (g) Post-injury physical and mental conditions and the effect of those nonrelated conditions on the disabled covered employee's ability to work;
- (h) Wage and employment at the time of injury;
- (i) Barriers to employment, including whether the barriers can be removed and what is needed to address the barriers;
- (j) Current financial status; and
- (k) Family supports/psychosocial aspects.

# Reports

A practitioner shall:

1. Prepare a written report within 30 days of the comprehensive vocational assessment.
2. Prepare periodic progress reports every 30 days showing the activity and type of vocational rehabilitation services provided.
3. Submit copies of all reports to the Commission, the employer/insurer, and the disabled covered employee's attorney.



# Elements of a Comprehensive Assessment Report

A practitioner shall include the following information in a comprehensive assessment report:

- (a) If the practitioner is unable to obtain the information set forth in §A(3) of COMAR 14.09.07.10, documentation of the practitioner's efforts to secure that information;
- (b) A determination of whether the disabled covered employee is able to work and if so, in what capacity, including whether the disabled covered employee can return to work in any capacity with the former employer and whether the disabled covered employee can return to work in a new job based on transferrable skills;

# Elements of a Comprehensive Assessment Report, Cont'd

- (c) Recommendations for additional testing including, but not limited to, a Functional Capacity Evaluation, psychiatric evaluation, and vocational testing;
- (d) If no additional testing is recommended, identification of the order of vocational services to be provided; and
- (e) A job analysis, approved by the healthcare provider, for the job or jobs for which the disabled covered employee is able to work; if applicable.

# Elements of Periodic (30 Day) Progress Reports

A practitioner shall prepare periodic progress reports that contain the following information:

- (a) A review of the disabled covered employee's compliance with the vocational rehabilitation plan, including any issues involving attendance, grades, and progression;
- (b) A list of the dates the vocational rehabilitation counselor contacted the disabled covered employee and any training site, if applicable;

# Elements of Periodic (30 Day) Progress Reports, Cont'd

- (c) A description of the work-related skills the disabled covered employee has acquired and a comparison with the vocational rehabilitation plan;
- (d) A summary of all actions taken in the past 30 days, including progress on previously recommended actions;
- (e) Identification of any barriers preventing completion of the plan and actions taken by the practitioner to address those barriers; and
- (f) A statement of whether the disabled covered employee is progressing as expected and will complete the plan by the target end date.

The parties shall provide the Rehabilitation Office with such medical information as the Rehabilitation Office may direct.

## Practice Tip:

Voc Rehab Practitioners must use Form VR03-  
Vocational Rehabilitation Provider 30-day  
Progress Report (*electronic submission*)

# Vocational Rehabilitation Services and Plans

## Hierarchy of Vocational Rehabilitation Services

- (1) In determining the appropriate vocational rehabilitation services reasonably necessary to return a disabled covered employee to suitable gainful employment, a practitioner shall consider each of the factors specified in Labor and Employment Article, §9-673(b), Annotated Code of Maryland.
  
- (2) A practitioner shall document that each factor has been considered either in the vocational rehabilitation plan or in the initial assessment report.

# Hierarchy of Vocational Rehabilitation Services, Cont'd

- (3) In providing vocational rehabilitation services, a practitioner shall attempt to return a disabled covered employee to suitable gainful employment in accordance with the following order of preference:
  - (a) Returning the disabled covered employee to the same job with the same employer;
  - (b) Modifying the same job with the same employer;
  - (c) Finding a new job with the same employer;
  - (d) Finding a job with a new employer;
  - (e) On the job training;
  - (f) Formally retraining the disabled covered employee for a period of time designed to lead to suitable gainful employment; and
  - (g) Self-employment.

# Vocational Rehabilitation Plan—Components

- (1) Vocational rehabilitation plans shall follow the hierarchy of services set forth in COMAR 14.09.07.11.
- (2) If a disabled covered employee is unable to return to suitable gainful employment without the provision of vocational rehabilitation services, a practitioner shall prepare a proposed vocational rehabilitation plan.
- (3) A practitioner shall prepare a proposed rehabilitation plan on the vocational rehabilitation plan form prescribed by the Commission and shall complete the form in accordance with the instructions provided.



# Vocational Rehabilitation Plan Components, Cont'd

- (4) A practitioner shall document in the proposed rehabilitation plan that each level of the hierarchy of services set forth in COMAR 14.09.07.11 has been considered during plan development.

**Practice Tip:** Voc Rehab Practitioners must use Form VR01-  
Proposed Vocational Rehabilitation Plan (*electronic  
submission*)

# Job placement plan

If the vocational rehabilitation plan includes a job placement plan, the practitioner shall include the following items in the vocational rehabilitation plan:

- (a) The specific vocational goals;
- (b) The specific types of services to be provided;
- (c) Any viable job leads;
- (d) A specific timeline including starting and completion dates; and
- (e) Any estimated costs necessary to meet the specific vocational goals.

# Retraining Plan

- A. If the vocational rehabilitation plan includes a formal retraining plan, the practitioner shall include the following items in the vocational rehabilitation plan:
- (i) The specific vocational retraining goal;
  - (ii) The estimated costs necessary to meet the specific goal;
  - (iii) Information about any formal course of study in the retraining plan including the name of the school, titles of classes, course length in weeks, attendance including beginning and ending dates, an itemized cost of tuition, books, and other necessary school charges; and
  - (iv) Any other required costs.

# Retraining Plan, cont'd

- B. The practitioner shall attach to the retraining plan the following items:
- (i) A copy of the course syllabus;
  - (ii) The physical requirements of the work for which the retraining will prepare the disabled covered employee;
  - (iii) Medical documentation demonstrating that the proposed training and field of work are within the disabled covered employee's physical restrictions;
  - (iv) Reports of all vocational testing and evaluations; and,
  - (v) A recent labor market survey of the field for which the training is proposed.

# Retraining Plan, cont'd

- C. In the proposed retraining plan, the practitioner shall explain why retraining is recommended, including a discussion of the other options considered and the likelihood that the proposed retraining plan will result in the employee's return to suitable gainful employment.

# Vocational Rehabilitation Plan—Approval

## COMAR 14.09.07.11

- (1) The practitioner shall send copies of the proposed vocational rehabilitation plan to all parties.
- (2) Within 15 days after receipt of a proposed rehabilitation plan, a party may sign the plan or submit the reason for disagreement, in writing, to all parties.
- (3) Lack of response from a party is interpreted to mean that the party consents to the plan.
- (4) If the parties agree to the proposed vocational rehabilitation plan, the parties shall submit the plan to the Commission for approval.

## Vocational Rehabilitation Plan Approval, Cont'd

- (5) The Commission may accept or reject the proposed plan, in whole or in part, and shall pass an order to that effect.
- (6) The parties shall attempt to resolve any disagreement concerning the recommendations contained in the proposed vocational rehabilitation plan.
- (7) If the parties are unable to reach agreement concerning the recommendations, the dispute shall be resolved in accordance with Regulation COMAR 14.09.07.12.
- (8) If a hearing is necessary to resolve the dispute, the practitioner shall appear at the hearing to present the practitioner's recommendations.

## Practice Tip:

To Disagree with a Proposed Rehabilitation Plan, Use Form VR13-disagreement With Proposed Vocational Rehabilitation Plan (*electronic submission*)



# Expiration of Vocational Rehabilitation Plan

- A. Fifteen (15) days prior to the expiration date of the Vocational Rehabilitation Plan, the practitioner shall contact all parties and make recommendations to:
  - (i) Discontinue services;
  - (ii) Extend services; or
  - (iii) Develop a new plan in accordance COMAR 14.09.07.11.
  
- B. If the parties are unable to reach agreement concerning the practitioner's recommendations, the dispute shall be resolved in accordance with COMAR 14.09.07.12.

# Disputes, Noncompliance and Termination

## A. Disputes

- (1) If a dispute or issue arises regarding vocational rehabilitation services, the parties shall file electronically a vocational rehabilitation dispute form, as prescribed by the Commission.
- (2) Upon receipt of the vocational rehabilitation dispute form, the Duty Commissioner shall contact the parties by telephone.
- (3) If the Duty Commissioner is unable to resolve the dispute, a hearing will be scheduled within 5 business days.
- (4) The Commission may award reasonable attorney fees in disputes arising out of vocational rehabilitation issues when deemed necessary given the particular facts of a claim.

**Practice Tip: Only Attorneys Can Use Form VR04**

# Disputes, Noncompliance and Termination Cont'd

## B. Noncompliance with Vocational Rehabilitation Plan

If a disabled covered employee is not meeting the employee's responsibilities or is not cooperating with vocational rehabilitation services, a practitioner shall:

- (i.) Document the factual basis for that determination and the practitioner's efforts to promote the disabled covered employee's participation; and
- (ii.) Promptly notify all parties in writing.

# Tips for not Irritating Commissioners

## VOC ISSUES ONLY

This means:

- NO MEDICAL TREATMENT
- NO PAYMENT OF BILLS
- NO MEDICAL MILEAGE
- OR ANYTHING ELSE

## Practice Tip

In order to schedule a hearing within **5** days, or “as soon as humanly possible,” the parties may be required to travel to a different hearing site.

This **WILL NOT** permanently change the venue of the case.

# Termination of Vocational Rehabilitation Services

- (1) Whenever a practitioner closes a case, the practitioner shall document the reasons for terminating vocational rehabilitation services.
- (2) Upon termination of vocational rehabilitation services or case closure, a practitioner shall notify all parties within 5 working days of the:
  - (a) Reason for the termination or closure; and
  - (b) Current employment status of the disabled covered employee.
- (3) A practitioner shall electronically submit a closure report to the Commission within 10 business days after notice of termination on the form prescribed by the Commission.

**Practice Tip:** Voc Rehab Practitioners must use Form VR02- Vocational Rehabilitation Closure Report (*electronic submission*)

# Secret Tip for Navigating the Vocational Rehabilitation Process

## **STEP ONE:**

Read the regulations.

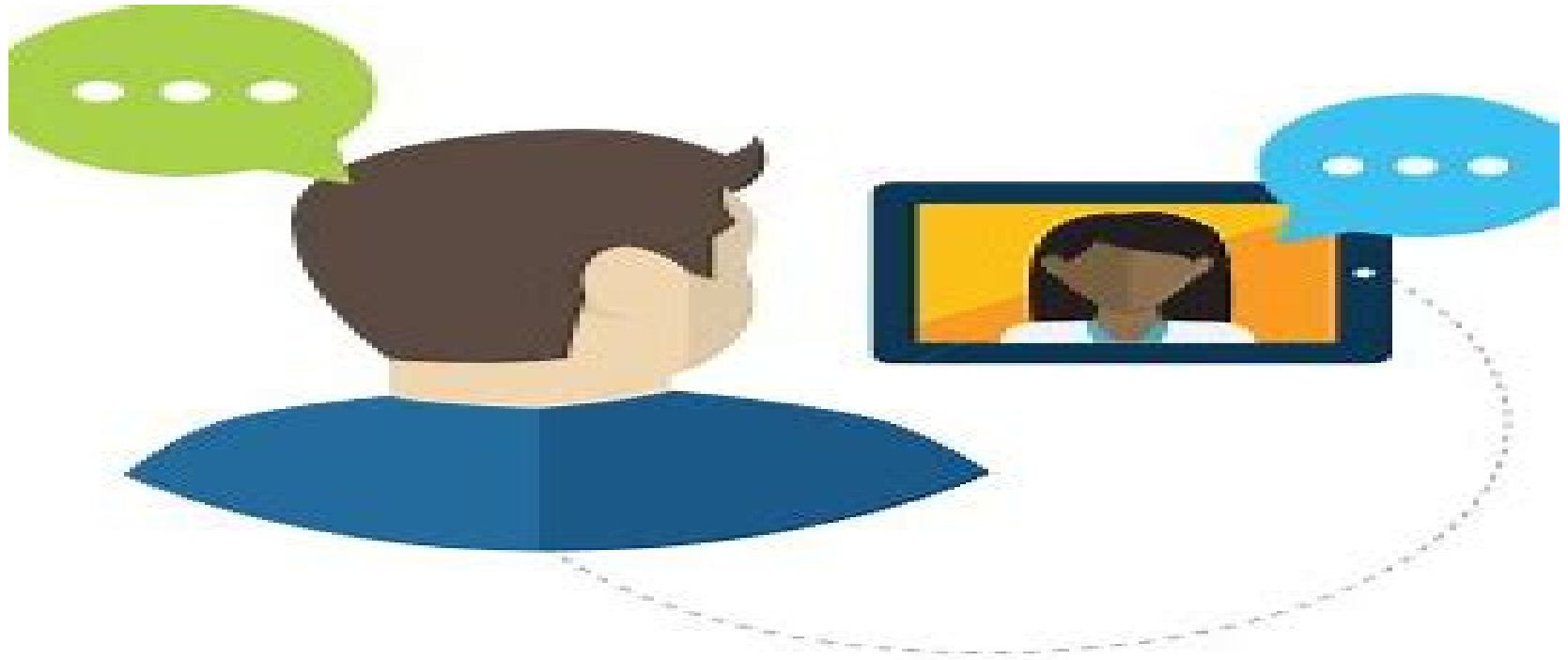
## **STEP TWO:**

Repeat STEP ONE.



# Telemedicine, Maryland Rules and Regulations, CRCC Ethical Guidelines:

## A Guide for WCC Registered Practitioners



# Telemedicine defined

- Telehealth — sometimes called telemedicine — is the use of electronic information and telecommunication technologies to provide care when you and the doctor are not in the same place at the same time. If you have a phone or a device with internet access, you already have everything you need to get medical care or services through telehealth — you may be able to:
  - Talk to your doctor live over the phone or video chat.
  - Send and receive messages from your doctor using chat messaging, email, secure messaging, and secure file exchange.
  - Use remote patient monitoring so your doctor can check on you at home. For example, you might use a device to gather ECG or other vitals to help your doctor stay informed on your progress.

**(TELEHEALTH.HHS.GOV, 2021)**

# Telemedicine and COVID-19

- Since the COVID-19 outbreak, mental health professionals of all disciplines have been struggling with keeping up with the changing rules/laws in each state related to providing mental health services via telehealth/telemedicine across state lines.
- The effect of COVID not only is true for mental health and medical professionals, but for those who provided services in the vocational rehabilitation community such as career counselors, clinical vocational rehabilitation counselors, job coaches, and rehabilitation agencies.

# Telemedicine and COVID-19, cont.

All state licensing boards, and national certification boards require that licensed or certified clinicians follow all the regulations, rules and ethical requirements for practicing under their license/certification no matter what method of communication is used. Practitioners must only practice within the boundaries of their competence, which requires education, continuing education, and/or supervision in telemental health.

# Telemedicine and COVID-19 cont.

The Veterans Benefits Administration (VBA), Veteran Readiness and Employment (VR&E) Service now provides Veterans the opportunity to meet with their Vocational Rehabilitation Counselors (VRC) via “Tele-counseling,” reducing the need for Veterans to travel for counseling appointments, and in some cases enabling Veterans to get their benefits faster. VRCs now have more tools to effectively provide personalized face-to-face communication and case management to Veterans residing in rural areas or those who may have transportation barriers.

([https://www.benefits.va.gov/BENEFITS/factsheets/vocrehab/VRE\\_Telecounseling.pdf](https://www.benefits.va.gov/BENEFITS/factsheets/vocrehab/VRE_Telecounseling.pdf))

# Telemedicine and COVID-19 cont'd

Services delivered via technology-assisted media such as telephones, the use of video, or the internet requires counselors be sensitive to various issues. The counselor must consider and address a multitude of issues in the areas of structuring the relationship to include:

- informed consent, confidentiality, acquiring required signatures on intake forms (consent to treat, release of information, professional disclosure forms, consent to treat minors, consent to tape, etc.)
- determining the basis for professional judgments, boundaries of competence, computer security, avoiding harm dealing with fees and financial arrangements, and advertising.

# Telemedicine and COVID-19, cont'd

Other specific challenges include, but are not limited to verifying the identity of the client, determining if the client is a minor, explaining to the clients the procedures for contacting the counselor when he or she is off-line, discussing the possibility of technology failure and alternate means of communication if technology failure occurs, exploring how to cope with potential misunderstandings when visual cues do not exist, identifying an appropriately trained professional who can provide local assistance (including crisis intervention), if needed.

Counselors must be knowledgeable regarding emergency services available to clients in their area when providing services via technology-assisted media.

# Maryland Regulations and Rules Telehealth, Telemedicine, & Telecounseling

1. Health Occupation §1–901
2. MD Code, Health Occupations, § 1-902
3. Insurance Article § 15–139
4. Board of professional counselors and therapists  
10.58.06.04. 04 Standards of Practice for Teletherapy.
5. Maryland Board of Nursing -10.27.17.04 Teletherapy



# Article - Health Occupations § 1–901

The following words have the meanings indicated.

- **“Health care practitioner”** means an individual who: (1) Provides behavioral health services to a patient in the State; and (2) Is licensed in the State by: (i) The State Board of Nursing; (ii) The State Board of Physicians; (iii) The State Board of Professional Counselors and Therapists; (iv) The State Board of Examiners of Psychologists; or (v) The State Board of Social Work Examiners.
- **“Teletherapy”** means telemedicine, as defined in § 15–139 of the Insurance Article, used to deliver behavioral health services.

# Article - Health Occupations § 1-902

## § 1-902. Teletherapy authorized

A health care practitioner may use teletherapy if:

- (1) The health care practitioner complies with any regulations adopted under this subtitle; and
- (2) The health care practitioner:
  - (i) Establishes a patient-practitioner relationship with the patient for whom teletherapy is being used;
  - (ii) Provides for the privacy of communications made through teletherapy; and
  - (iii) Addresses, to the extent practicable, the need to maintain the safety and well-being of patients for whom teletherapy is being used.

# Article – Insurance § 15–139

- **“Telehealth”** means, as it relates to the delivery of health care services, the use of interactive audio, video, or other telecommunications or electronic technology by a licensed health care provider to deliver a health care service within the scope of practice of the health care provider at a location other than the location of the patient.
- **“Telehealth”** does not include: (i) an audio-only telephone conversation between a health care provider and a patient; (ii) an electronic mail message between a health care provider and a patient; or (iii) a facsimile transmission between a health care provider and a patient.

# 58 BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS

## COMAR 10.58.06.04. Standards of Practice for Teletherapy.

### Standards of Practice for Teletherapy

- A. Before providing teletherapy services, a counselor or therapist shall develop and follow a procedure to:
- (1) Verify the identification of the client receiving teletherapy services;
  - (2) Obtain informed consent specific to teletherapy services using appropriate language understandable to the client;
  - (3) Prevent access to data by unauthorized persons through encryption, or other means;
  - (4) Notify clients in the event of a data breach;
  - (5) Ensure that the teletherapy practitioner provides a secure and private teletherapy connection and complies with federal and state privacy laws; and
  - (6) Establish safety protocols to be used in the case of an emergency, including contact information for emergency services at the client's location.

# BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS

## COMAR 10.58.06.04 Standards of Practice for Teletherapy, Cont'd

### Standards of Practice for Teletherapy.

#### B. A counselor or therapist shall:

- (1) Obtain or confirm an alternative method of contacting the client in case of a technological failure;
- (2) Determine whether the client is in Maryland and identify the client's specific location;
- (3) For an initial teletherapy interaction only, disclose the counselor or therapist's name, location, license number, and contact information;
- (4) Identify all individuals present at each location and confirm they are permitted to hear the client's health information; and
- (5) Be held to the same standards of practice and documentation as those applicable for in-person sessions.

#### C. A counselor or therapist may not treat a client based solely on an online questionnaire.

# BOARD OF PROFESSIONAL COUNSELORS AND THERAPISTS

## COMAR 10.58.06.05 Client Evaluation.

- A. A counselor or therapist shall perform a client evaluation adequate to establish diagnoses and identify underlying conditions or contraindications to recommended treatment options before providing treatment.
- B. If the evaluation is adequate to comply with of this regulation, a counselor or therapist may use:
  - (1) Live synchronous audio-visual communication;
  - (2) Other methods of performing a counseling examination remotely; or
  - (3) A counseling evaluation performed by another counselor or therapist providing coverage.

# Maryland Board of Nursing

## COMAR 10.27.17.04 Teletherapy

- A. In order to provide teletherapy services to a client, a CRNP/PMH or PMH/APRN shall have:
- (1) Established a client-therapist relationship;
  - (2) Performed a mental status assessment;
  - (3) Established a diagnosis;
  - (4) Developed a treatment plan; and
  - (5) Obtained an informed consent from the client to provide teletherapy.

# Maryland Board of Nursing

## COMAR 10.27.17.04 Teletherapy, cont'd

- B. Before providing teletherapy services, the CRNP/PMH or PMH/APRN shall develop a procedure to:
- (1) Verify the identity of the client receiving teletherapy services;
  - (2) Ensure that all medical records are protected from unauthorized access through encryption or other means;
  - (3) Ensure that the CRNP/PMH or PMH/APRN provides a secure and private teletherapy connection and complies with federal and state privacy laws;



# Maryland Board of Nursing

## COMAR 10.27.17.04 Teletherapy, cont'd

- (4) Notify a client in the event of a data breach in accordance with the Health Insurance Portability and Accountability Act (HIPAA) and the Maryland Confidentiality of Medical Records Act; and
- (5) Establish safety protocols to be used in the case of an emergency.

# Maryland Board of Nursing

## COMAR 10.27.17.04 Teletherapy, cont'd

At the outset of each teletherapy session, the CRNP/PMH or PMH/APRN shall:

- (1) Identify all individuals present at each location and confirm that they are permitted to hear or access personal health information;
- (2) Obtain or confirm an alternative method of contacting the client in case of a technological failure; and
- (3) Determine whether the client is in Maryland.



Teletherapy Ethical Considerations for  
Vocational Rehabilitation Counselors  
(Commission on Réhabilitation Commission  
Certification)

# Commission on Rehabilitation Commission Certification Ethical Guidelines

## *Competence and Legal Considerations*

- a. *Competence.* When technology is used in the counseling relationship, rehabilitation counselors are held to the same level of expected behavior and competence as defined by the Code regardless of the technology used or its application.
- b. *Legal Considerations.* Rehabilitation counselors who use technology, social media, and/or distance counseling in their practice understand they may be subject to laws in both the rehabilitation counselor's practicing location and the client's place of residence. Rehabilitation counselors are aware of and adhere to laws governing the practice of counseling across state lines or international boundaries. Rehabilitation counselors seek business, legal, and technical assistance when necessary and make reasonable efforts to ensure that technology is used appropriately, and client rights are protected.

# Commission on Rehabilitation Commission Certification Ethical Guidelines, Cont'd

## *Accessibility*

- a. **Acquisition and Use of Technology.** When providing technology-assisted services, rehabilitation counselors make reasonable efforts to ensure that technology and equipment used, purchased, or recommended for a client meets the current standards of accessibility as established by law. Rehabilitation counselors also determine that this technology is appropriate for the clients' needs and is accessible by them based on their individual capabilities, including language preferences. When recommending language translation software, limitations are reviewed with clients.
  
- b. **Accessing Technology.** Rehabilitation counselors guide clients in obtaining reasonable access to pertinent applications when providing technology assisted services.

# Commission on Rehabilitation Commission Certification Ethical Guidelines, Cont'd

*Informed Consent and Disclosure.* Clients have the freedom to choose whether to use technology-based distance counseling within the rehabilitation counseling process. In addition to the usual and customary protocol of informed consent between rehabilitation counselor and client for face-to-face counseling, the following issues, unique to the use of technology-based distance counseling, are addressed in the informed consent process:

1. risks and benefits of engaging in the use of technology-based distance counseling;
2. type of technology, possibility of technology failure, and alternate methods of service delivery;
3. anticipated response time;
4. procedures to follow when the rehabilitation counselor is not available;
5. referral information for client emergencies;
6. time zone differences;
7. cultural and/or language differences that may affect the delivery of services;
8. possible denial of insurance claims and/or benefits;
9. any limitations due to services provided across jurisdictions; and
10. any policies related to use of social media.

# Commission on Rehabilitation Commission Certification Ethical Guidelines, Cont'd

*Transmitting Confidential Information* - Rehabilitation counselors inform clients about the inherent risks of using technology to transmit confidential information. Rehabilitation counselors explain the limitations of specific technologies (e.g., text messaging, email) and urge clients to be cautious when using technology to communicate confidential information.

*Security* - Rehabilitation counselors make reasonable efforts to ensure the security of confidential information transmitted or stored through any electronic means. Rehabilitation counselors use encryption and password protection techniques for all technology-based communications to protect confidential client information.

# Commission on Rehabilitation Commission Certification Ethical Guidelines Cont'd

*Client Verification* - Rehabilitation counselors who engage in the use of technology-based distance counseling to interact with clients take steps to verify the client's identity at the beginning and throughout the rehabilitation counseling process. Verification can include, but is not limited to, 32 using code words, numbers, graphics, or other nondescript identifiers.

<https://crccertification.com/code-of-ethics-4/>



# MD Statutes and Regulations Links

## 1. Health Occupation §1–901

<http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gho&section=1-901&enactments=False&archived=False>

## 2. MD Code, Health Occupations, § 1-902

<http://mgaleg.maryland.gov/mgawebsite/Laws/StatuteText?article=gho&section=1-902&enactments=False&archived=False>

## 3. Insurance Article § 15–139

<http://mgaleg.maryland.gov/mgawebsite/laws/StatuteText?article=gin&section=15-139&enactments=false>

## 4. Board of professional counselors and therapists 10.58.06.04. 04 Standards of Practice for Teletherapy.

<http://www.dsd.state.md.us/comar/comarhtml/10/10.58.06.04.htm>

## 5. Maryland Board of Nursing -10.27.17.04 Teletherapy

<http://www.dsd.state.md.us/comar/comarhtml/10/10.27.17.04.htm>

<https://wccquiz.wcc.state.md.us/>