

TELEHEALTH FOR HOLISTIC NUTRITION PROFESSIONALS

This paper is not intended to be legal advice. If you have any legal questions, the NANP urges you to seek qualified legal representation from a professional attorney with experience in these issues.



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In recent weeks there has been a tremendous amount of confusion regarding Telehealth. On March 17, 2020, Vice President Mike Pence spoke about loosening restrictions regarding Telehealth due to the current health crisis in the United States. This was followed by detailed communication from the Health and Human Services Office for Civil Rights which stated that sanctions and penalties for noncompliance would not be applied during the nationwide public health emergency.

“A covered health care provider that wants to use audio or video communication technology to provide Telehealth to patients during the COVID-19 nationwide public health emergency can use any non-public facing remote communication product that is available to communicate with patients.” These solutions would not necessarily be HIPAA-compliant (Health Insurance Portability and Accountability Act) but can be used during the public health emergency and include remote video communication products such as Facebook Messenger video, Google hangouts video, WhatsApp video chat, and Apple FaceTime. It is also permissible to use text-based messaging solutions such as WhatsApp, Jabber, Facebook Messenger, Google hangouts, and Signal.

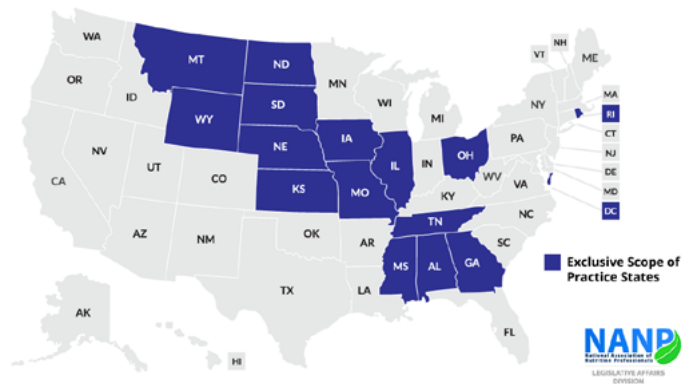
NANP Legislative Affairs has reviewed these new guidelines and has determined that these only apply to “covered health care providers” who are licensed professionals such as Doctors, Nurse Practitioners, Psychologists, Psychiatrists, etc. These loosened restrictions do not apply to holistic nutrition professionals. NANP is hopeful that the easing of restrictions during the pandemic will set a precedence, and holistic nutrition professionals will be able to provide Telehealth services to clients across the United States in the future. This is certainly a time in which our training and skills could help so many across the U.S. The NANP wanted to clarify our stance on regulations about Telehealth and the holistic nutrition professional, but if you have further questions on Telehealth please contact our Legislative Affairs Specialist Laura Waldo: laura@NANP.org.

Misinformation abounds about Telehealth (often referred to as Tele practice), online counseling, working over state lines, state laws, and federal laws. The purpose of this document is to provide current and relevant information that will help holistic nutrition professionals determine if they may practice Telehealth in their state.

Currently, Telehealth/Tele practice is not regulated at the Federal level, therefore each state determines how Telehealth is regulated. These laws are developed for licensed practitioners, (Doctors, Nurse Practitioners, Psychologists, etc.) and most often fall under the purview of the State Board of Health. NANP recommends each practitioner review laws regarding Telehealth/Tele practice for their state but has prepared this document as an overview of Telehealth laws for the holistic nutrition professional. The analysis regarding the current state of who may practice Telehealth is outlined below, and examples are included for clarification. The state in which you reside is a predominant factor in your ability to provide services to clients, including Telehealth services. Holistic nutrition professionals who reside in Exclusive Scope of Practice States and those in Title Protection States are currently ineligible to provide Telehealth services.

Exclusive Scope of Practice States

Exclusive Scope of Practice States are the most difficult for holistic nutrition professionals to practice. These states require a license to provide nutrition care services and only dietitians and in some cases nutritionists may obtain a license. These states typically have exemption language written in their laws allowing holistic nutrition professionals the ability to provide general nutrition information, however, you may not individualize dietary recommendations or assess the nutrient status of your client. General nutrition information applies to the masses and can be found in a book, a medical journal, on the internet, etc. These states also protect titles such as dietitian, nutritionist, dietitian/nutritionist, and abbreviations such as L.D., L.N., RDN, and CNS. The Exclusive Scope of Practice Law for the state of Ohio is an example. The law in Ohio requires a license to provide nutrition care and assess the nutritional needs of an individual or group of people. Currently,



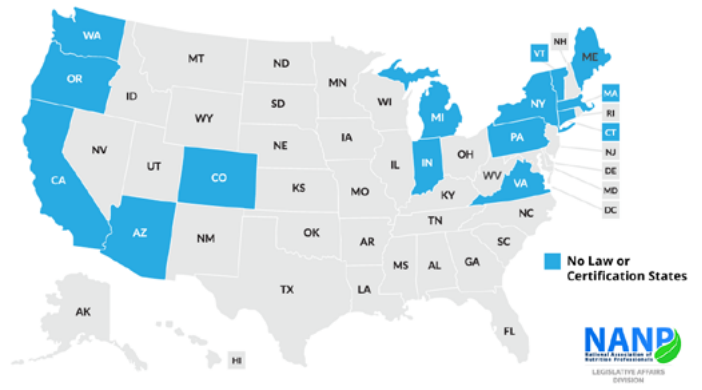
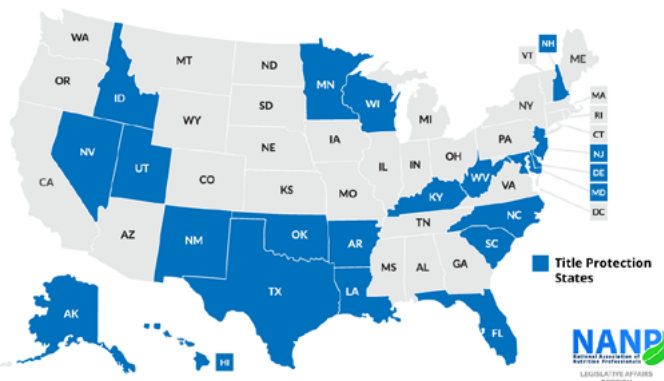
only dietitians may obtain a license issued by the state. Therefore, the holistic nutrition professional in Ohio should not provide individualized nutrition advice to clients in Ohio or other states via Telehealth.

Title Protection States

Holistic nutrition professionals may work with individuals and groups of people providing nutrition services, however, as the name implies, you may not refer to yourself as nor imply that you are a dietitian, a nutritionist, or that you are licensed or certified by the state. The laws in Title Protection States are written in such a manner that only those who hold a license may provide Telehealth services. Therefore, holistic nutrition professionals are not eligible to provide Telehealth services to clients.

No Law or Certification States

These states are the most lenient when it comes to how a holistic nutrition professional may practice. States such as California, Colorado, Arizona, Maine, Michigan, Virginia, etc. do not have regulatory restrictions on who may provide nutrition advice. In these states it may be possible to provide Telehealth services, however, it is always best to check the laws as new regulations can be added which affect who may provide services.



NOTE: There is an exception for the state of North Carolina. House Bill 357 was passed by the legislature and signed into law by the Governor of North Carolina in 2018. The state transitioned from an Exclusive Scope of Practice to a Title Protection state, allowing holistic nutrition professionals to work within their scope of practice. A Tele practice clause was included in the law which states, "SECTION 13. Article 25 of Chapter 90 of the General Statutes is amended by adding new sections to read: § 90-365.5. Tele practice. Tele practice, as defined in G.S. 90-352, is not prohibited under this Article so long as (i) it is appropriate for the individual receiving the services and (ii) the level of care provided meets the required level of care for that individual."

NANP reminds holistic nutrition professionals to remain vigilant when it comes to protecting the privacy of their clients when engaging in Telehealth or in-person nutrition consultations. While holistic nutrition professionals are not required to follow the Health Insurance Portability and Accountability Act (HIPAA) guidelines it is simply a matter of good practice to protect client information.

Safe practice guidelines to protect you and your clients:

- Password protect your computer where client files are contained.
- Paper files should be locked in a file cabinet, especially if you share office space.
- Do not discuss clients with other people or practitioners without express written permission from your client.
- Have your clients sign your waiver/disclaimer emphasizing that you are not licensed or certified by the state and that you are not able to diagnose, prevent, treat or cure any disease.
- Always have your clients seek medical advice from a licensed health care practitioner.

For those who can provide Telehealth services, there are specific requirements for computer software. Examples of HIPAA compliant software includes Zoom Health, Practice Better, Doxy.me, VSee, TheraPlatform, Simple Practice, TheraNest, TheraLink, PracticeSuite, etc.