

# Tennessee Laws and Rules on Licensure: Updates and Issues

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# Disclosure

I have no known conflicts of interest.

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# No Surprises Act (in effect Jan. 2021)

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The target of the Act is to prevent consumers with private health plans from getting unexpected charges from medical providers.

1. Controls ambulance or emergency services billing
2. Controls billing of out of network providers who are billing for services at in-network facilities
3. Requires out of network insurance providers to give estimates of their fees
4. Requires providers seeing clients who do not have health insurance or are not using health insurance to give estimates of their fees

# How does this apply to psychologists?

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Psychologists are not providers of ambulance or emergency services.

If a psychologist works for a facility, the facility is responsible for telling the psychologist what to do

At this point, there are no mechanisms set up for out of network or in network insurance providers to submit estimates, so this is not applicable right now.

**The main impact for now is on psychologists who see clients who either do not use their insurance at all OR do not have insurance (self-pay clients)**

**These psychologists must provide Good Faith Estimates to their self-pay clients starting Jan. 2022.**

A grayscale photograph of a person's hands holding several coins. The hands are cupped together, and the coins are scattered in the center. The background is blurred. A blue gradient bar is at the bottom of the image.

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# Good Faith Estimates

# Good Faith Estimate Notice

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This general document is to inform clients about their right to a GFE

Post this notice on your website or in your office

The document says that it is general instructions and should not be given to individual patients.

You can find the document at [HHS' model notice form \(PDF, 129KB\)](#)

# Create a Good Faith Estimate Template

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This document is used to create a GFE for each client. There is a template available on the CMS website, and APA has also created a much simpler version for individual practitioners.

If you are in independent practice, it is likely that you can work with this [simple one-page GFE form \(DOCX, 26KB\)](#).

If you are coordinating services from multiple providers, you may need to work from the more complex template provided by CMS at [good faith estimate template \(PDF, 163KB\)](#)

# What is in a Good Faith Estimate?

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For new patients, an explanation of the estimate and typical information about your practice.

For ongoing patients, an explanation of what the range of costs are likely to be over the time period covered.

The name of the psychologist with their NPI number and tax identification number



# What is in a Good Faith Estimate? (cont.)

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A detailed list of the expected charges by diagnosis codes for up to 12 months with a total estimated cost (can be a **number** or a **range**)

A disclaimer that it is an estimate, not a contract, and it could change.

A statement that the patient can dispute the bill if the bill exceeds \$400 more than the estimate, and how to dispute the bill.

# Determining who should get a GFE

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Ask:

- A) if they have health insurance
- B) if so, if they intend to submit a claim to that insurance for your services.

If the answer is Yes to both, you do not need to give them a GFE for now.

Regarding question B, CMS supported APA's interpretation that who submits a claim to the patient's insurance (patient or psychologist) is not critical. Nor does it matter whether you are in or out of network with the patient. What is important is that the patient intends to use their insurance to cover your services.

# Determining who should get a GFE

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If the patient does NOT have health insurance and is self-pay, then they should get a GFE

For most health insurance, if the patient has insurance but is NOT going use it, then they get a GFE

However, if the patient is in a federal health insurance program like Medicare or Medicaid, they don't get a GFE even if they are not using their insurance. That is because those programs have their own surprise billing protections for patients. Coverage through Tricare and CHIP are not explicitly mentioned, but APA expects they will be included in this exemption.

If they need a GFE, first, inform them orally that a GFE is available and direct them to your website/office where it is displayed. Then, give them a GFE.

# Giving a GFE to New Clients

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- For appointments scheduled three or more business days before the appointment date, provide the GFE within one business day after scheduling.
- For appointments scheduled 10 or more business days before the appointment date, provide the GFE within three business days after scheduling.
  - The regulations do not address when to send the GFE if the appointment is scheduled less than three days out, so send as soon as possible. And for emergent situations, at least orally convey an estimate at the beginning of the appointment, following up with a written GFE.
- If the patient reschedules the appointment, you must provide an additional GFE, within the timeframes above. (Note: APA objects to this requirement and will advocate for its removal. APA sees no value in requiring a new GFE for rescheduling.)

A close-up photograph of a hand holding a small, round object, possibly a coin or a small stone, against a warm, golden sunset background. The hand is positioned in the lower-left corner, and the object is held between the thumb and index finger. The background is a soft, out-of-focus sunset with warm orange and yellow tones.

# New Client GFEs may Require Updates

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Common question is how do I do a GFE if I have never seen someone?

You can do two things:

1. Tell the client the cost of the initial session or two or three sessions and then that you will do another one when you know them better.
2. Do an estimate about the typical length of time you see people, and it could be more, and then adapt it when you know more.

# Updating your GFEs

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You should provide updated GFEs to patients at least one business day before scheduled care under the following circumstances, listed in order of priority.

- There are changes to service that significantly affect the cost of care. It is most critical to make sure that your actual billing does not exceed the current GFE by more than \$400, however any changes in billing should trigger an updated GFE.
- You continue to treat a patient beyond the time frame of the initial GFE (12 month maximum).
- There are any changes to the information in the GFE.

APA has created an Excel Spreadsheet template to help you keep track of your billing as they relate to GFEs. See [Excel spreadsheet \(XLSX, 13KB\)](#)

# More information including FAQs

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The first is a link to a long article on the APA website about the No Surprises Act that was published in January. Below that is a link to a shorter article on steps you need to do to start being in compliance. And below that is a link to frequently asked questions regarding the No Surprise Act.

<https://www.apaservices.org/practice/legal/managed/no-surprises-act>

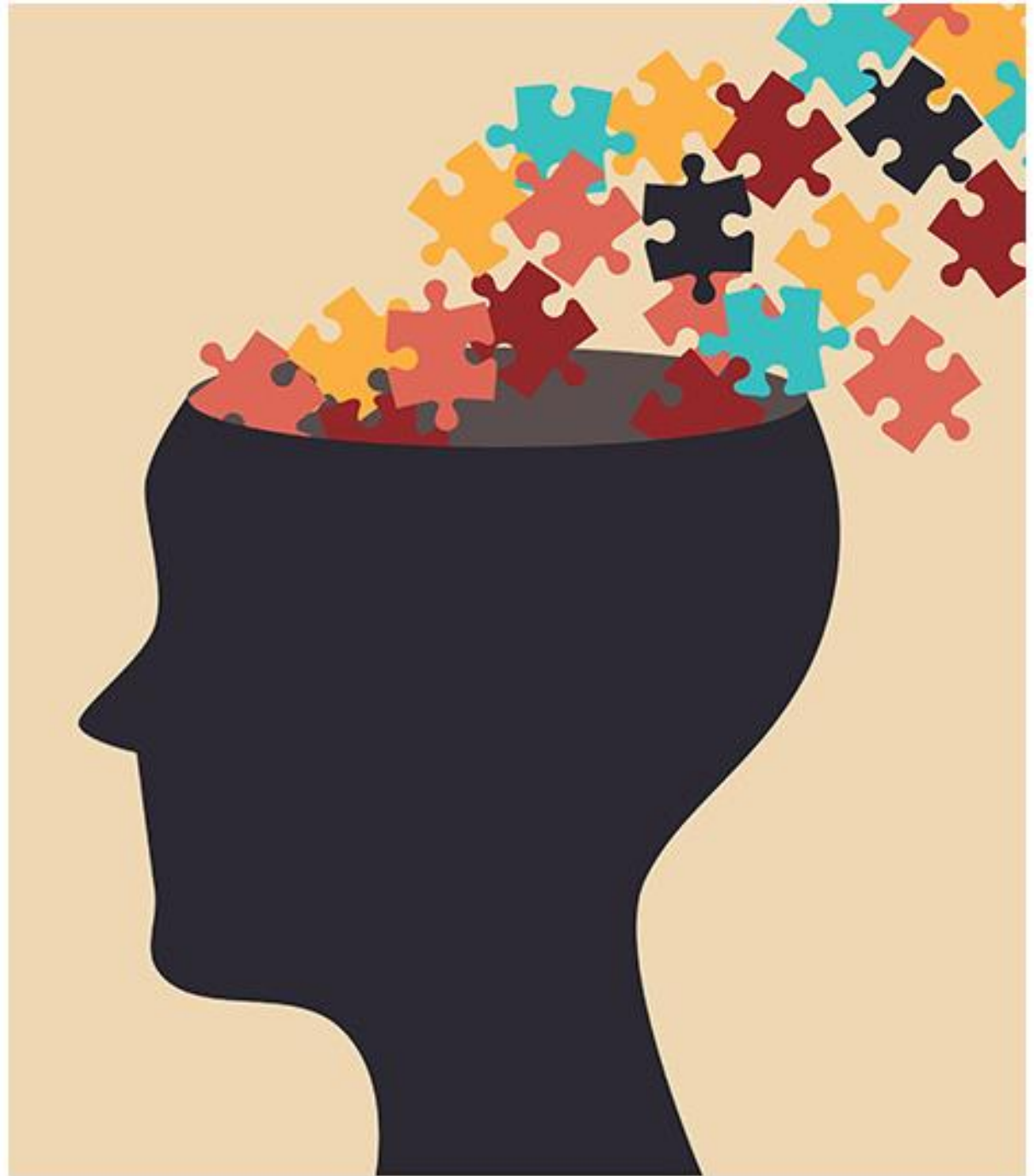
<https://www.apaservices.org/practice/legal/managed/good-faith-estimate-compliance>

<https://www.apaservices.org/practice/legal/managed/faqs-no-surprise-act>



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# Continuing Education Rules





# TN CE Mandates

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Every license cycle, 40 hours of CE are required.

These 40 hours must be completed in the two ***calendar*** years before license renewal

Applies to psychologists, senior psychological examiners and psychological examiners

Certified psychological assistants are at discretion of supervisor

# Revision of CE rules

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In the past, there has been the addition of requirements rather than re-organizing the requirements

Extremely complicated system

Some parts were antiquated or redundant

- Discussion of credit for oral licensing exam
- CE through videotapes

Other states do not have Type I, Type II, Type III

# Timeline for New CE Rules

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Rulemaking Hearing occurred in Dec. 2020

New CE Rules went into effect in July 2021

TPA asked the Board of Examiners to adopt a policy for how licensees will adopt the new rules. This was done in June 2021.

# Policy for when new CE Rules must be followed

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## For the people renewing in **2022**

- Their required CE would be from 2020 and 2021
- 1.5 years of CE under old rules
- Licensee could continue to follow old rules or could use new rules

## For people renewing in **2023**

- Required CE in 2021 and 2022 (1.5 years under new rules)
- Licensee must follow new rules

# No Type I CE hours anymore

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Type I has become: Continuing Education Provided by an APA Approved Sponsor

These are continuing education programs which are postdoctoral in nature and include formal learning objectives and evaluation of learning activities.

At least nine (9) hours of CE must be obtained from an APA approved sponsor each license cycle (same as old rules)

Deleted the requirement that all CE hours obtained “via the internet” must be from an APA approved sponsor

# The New Type II Continuing Education

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## Other Sponsor Approved Continuing Education

These are formal activities which are

- psychological in nature,
- provide documentation of attendance,
- have a pre-assigned number of CE credits.

# Other Sponsor Approved Continuing Education

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Sponsors can include state or regional psychological associations, a recognized credentialing body, an institution housing an APA-approved internship, or a nationally recognized accredited college or university with a health-related professional training program

In previous CE rules, Type I and Type II hours had to add up to a minimum of 18 hours (with at least 9 hours being Type I)

This is no longer a requirement

# Ethics and Tennessee Law

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A total of three (3) hours of continuing education provided by an APA approved sponsor or other sponsor approved continuing education shall pertain to a combination of all of the following areas:

1. Tennessee Code Annotated, Title 63, Chapter 11; **and**
2. Official Compilation, Rules and Regulations of the State of Tennessee, Chapters 1180-01, 1180-02, 1180-03 and 1180-04; **and**
3. Professional ethics for psychologists (no longer specified as APA Ethical Principles due to version changes)



## Cultural diversity

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Aspects of identity due to age, disability, gender, race, religion, sexuality, culture, socioeconomic status, or other cultural dimensions

3 hours per license cycle

No longer has to be from an APA approved sponsor or other sponsor approved

Cultural diversity must be noted in title, description, or curriculum. Not required to be devoted to cultural diversity, but one of the objectives or descriptions

# Supporting Professional Connections and Increasing Ethical Knowledge

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Doing supervision up to 5 CE hours per cycle (does not have to be voluntary or external to job)

Serving in a position relevant to psychology with a state or national psychological association for at least one year carries 5 CE hours per year

Being on the Board of Examiners carries 10 hours per year with Ethics/Law credit

## Clinical Peer Consultation Groups

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Structured and organized system of interaction with colleagues designed to broaden professional knowledge and decrease professional isolation

Research groups, journal clubs, case consultations with a structured, organized format that focus on professional practice (in person or electronically)

Requires a minimum of ten hours per renewal cycle

One hour of peer consultation equals one CE credit hour

Maximum of 20 CE hours can be received per cycle

Need documentation of date, time, duration, location, attendees and topic

# Help for Early Career Psychologists

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Passing the Ethics and Jurisprudence Examination will carry 3 CE credits

First renewal of license only requires 30 hours CE because may be less than 2 years for CE

Renewal based on birth month and whether born in even or odd year. Must have license more than one year to renew.

- DOB Dec. 1978, Licensed Nov. 2018, Renewal would be Dec. 2019 (1 month CE, though Board Administrator says would not do this)
- DOB Jan. 1978, Licensed Feb. 2018, Renewal would be Jan. 2021 (2 yr 10 mo CE window)

# Volunteer professional services for CE credit

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Volunteer professional services up to 8 hours a cycle

Maximum is four hours a year.

One hour of CE through the performance of one hour of voluntary service.

Evidence of voluntary healthcare services must include a letter on official letterhead from the sponsoring organization identifying the date when the services were rendered. And the number of hours completed.

## CE credits for Coursework

Workshops, seminars or courses - Relevant non-accredited psychology workshops, seminars or courses can be completed for a maximum of ten (10) hours of CE credit per year. Acceptable documentation will consist of certificates of attendance or registration receipts

Passing a graduate course in an APA-approved graduate psychology program shall be assigned five (5) CE hours per credit hour. A maximum of fifteen (15) CE hours is allowed.

Passing the ABPP exam shall be assigned twenty (20) hours of CE credit

## CE credits for Teaching

Psychology presentations at relevant professional meetings. Acceptable documentation: A copy of the program or agenda and the number of clock hours. A maximum of three (3) CE hours per presentation is allowed.

Preparation and delivery of guest lectures to academic or public groups. Acceptable documentation: A copy of a printed agenda, program or class syllabus. A maximum of one (1) CE hour per lecture is allowed.

Developing and teaching an academic psychology course in an institution accredited by a regional accrediting association. One semester-length, three (3) credit hour course equals twenty (20) CE hours; one quarter-length, three (3) credit hour course equals fourteen (14) CE hours. Acceptable documentation: A letter from the department head or dean stating that the licensee taught the course for the first time and the number of credits assigned for the course.

## CE credits for Publications

Writing or editing a published book, or writing a book chapter or a refereed journal article shall be assigned twenty (20) hours of CE credit. Acceptable documentation will consist of proof of publication.

Being the principal editor of a journal or serving on the editorial board of a journal article shall be assigned twenty (20) hours of CE credit. Acceptable documentation will consist of proof of publication.

Serving as a reviewer of a journal article shall be assigned five (5) hours of CE credit per manuscript up to a maximum of twenty (20) hours per licensure cycle. Acceptable documentation will consist of confirmation of completed reviews.



# New Requirement for Interactive CE

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**A minimum of twenty (20) of these 40 CE hours must involve the opportunity for real time interaction during the event.**

The word “internet” has been deleted from the CE rules.

Instead, the criteria is whether or not real time interaction is available in the CE course.

Research into the effectiveness of continuing education supports the effectiveness of interaction in learning and in the translation of learning into practice

Buttars, Taylor  
and Neimeyer  
(2021) CE:  
Exploring  
Translation of  
Learning into  
Practice.  
Professional  
Psychology:  
Research and  
Practice.

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CE Goals: Integrate new information, equipping psychologists with best practices new competencies (APA)

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CE is mandated by all 50 states and the District of Columbia

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“Satisfaction” ratings with CE programs are generally 80%, assessments of learning/application are more like 50%.

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Basis of the study was the 2019 APA national convention

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Variable: Length of the CE program (longer versus shorter)

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Variable: Instructional methods used in the CE courses.

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# Results

- Longer programs resulted in more learning/application
- Multimodal learning most effective, especially videos, demonstrations, or cases
- Role plays, discussion less effective
- Slideshows did poorly

**Table 2**

*Extent to Which Different Learning Modalities Are Related to CE Outcomes*

| Modality                             | Overall level of learning | New practice-related concepts/behaviors | Application into practice |
|--------------------------------------|---------------------------|---|---------------------------|
| Demonstrations                       | .31***                    | .39***                                  | .36***                    |
| Case illustrations                   | .35***                    | .37***                                  | .34***                    |
| Clinical or instructional exercises  | .25***                    | .31***                                  | .31***                    |
| Participant role plays or rehearsals | .24***                    | .31***                                  | .27***                    |
| Videos                               | .29***                    | .18**                                   | .22***                    |
| Participant breakout groups          | .19**                     | .21***                                  | .20**                     |
| Questions and answers or discussions | .24***                    | .19**                                   | .22***                    |
| Slideshow-based lectures             | .05                       | .10                                     | .14*                      |

*Note.* CE = Continuing education.

\* Signifies significance at  $p < .05$ . \*\* Signifies significance at  $p < .01$ .



# Proposed Tennessee Law CE programs for the future

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Group format via Zoom meeting or something similar

Limitation on number of participants

Offered several times a year

Participant input on topics to be covered

Allow time for discussion and interaction

First one tentatively scheduled for April 2022

# CE Waivers

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The Board may grant a waiver of the need to attend and complete the required hours of continuing education where illness, disability, or other undue hardship beyond the control of the licensee prevents a licensee from complying.

A waiver approved by the Board is effective for only the renewal period for which the waiver is sought unless otherwise specified in writing by the Board.

The Board Consultant and the designee are authorized to grant or deny requests for waivers subject to subsequent Board ratification.

# CE Waivers (part 2)

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Waivers will be considered only on an individual basis and may be requested by submitting the following items to the Board Administrative Office **prior** to the end of the licensure cycle in which the continuing education is due:

- 1. A written request for a waiver which specifies what requirement is sought to be waived and the reasons for the request.
- 2. Any documentation which supports the reason for the waiver requested or which is subsequently requested by the Board.



# Documentation of Continuing Education

Keep track of your CE hours, keep certificates and sign in sheets or appropriate documentation for alternative CE activities

Licensees should prepare summary report with documentation each cycle, audits are requested by random selection

Each licensee shall maintain documentation of CE hours for five (5) years

Five percent of licensees are audited each year with random selection

# Does doing CE decrease licensing infractions?

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92,000 psychologists studied nationwide by Neimeyer et al., 2013

CE mandated state vs. no CE mandated state had no influence on disciplinary actions

Amount of CE completed had no influence on disciplinary actions

Membership in a state psychological association lowers rate of discipline (Knapp and VanderCreek, 2012)



# Telepsychology in Tennessee

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# New Rules for Telepsychology Passed in Sept. 2021 (Rule 1180-02-.27)

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These rules have been under review for over five years

Will go into effect likely in early 2022 (as of 2/25/22, they are not in effect yet)

Telepsychology means the practice of psychology via electronic communications technology by persons licensed under T.C.A. § 63-11-203. Electronic communication technology is information exchanged typically using audio or visual technology that are part of a plan of care during a scheduled or agreed upon time.

Licensees cannot provide telepsychology to patients domiciled or physically located in any jurisdiction other than Tennessee.

# Recognition of the Limitations of Telepsychology

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Licensees should recognize that telepsychology is not appropriate for all psychological problems and patients

Decisions are made case by case on basis of potential risks through electronic communication and to protect the client.

Must conduct a risk-benefit analysis per client, and document findings specific to:

- 1. Whether the patient's presenting problems and apparent condition are consistent with the use of telepsychology to the patient's benefit;
- 2. Whether the patient has sufficient knowledge and skills in the use of the technology involved in rendering the service or can use a personal aid or assistive device to benefit from the service.

Must not provide telepsychology services to any person or persons when the outcome of the risk-benefit analysis is inconsistent with the delivery of telepsychology services, whether related to clinical or technological issues.

# Use of Secure Communication

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Whenever feasible, use secure communications, such as encrypted text messages, secure email, secure websites, or secure real-time video.



# The Eight Components of Informed Consent (Part 1)

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1. The **limitations and innovative nature** of using electronic communications in the provision of psychology services;
2. The potential **risks to confidentiality** of information due to the use of electronic communication;
3. The potential **risks of sudden and unpredictable disruption** of telepsychology services and how an alternative means of re-establishing electronic or other connection will be used under such circumstance;
4. The **time and manner in which the licensee will respond** to electronic messages;

## The Eight Components of Informed Consent (Part 2)

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5. The **emergent circumstances** when the licensee and patient will use alternative means of communication;
6. The **other parties who may have access** to communications between the patient and the licensee;
7. The specific methods for ensuring that a patient's electronic communications are **directed only to the licensee** or supervisee;
8. The **manner in which the licensee will store** the electronic communications exchanged with the patient.

# Safeguards Must be in Place when using Telepsychology

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Upon initial and subsequent contacts with the patient, make reasonable efforts to verify the identity of the patient.

Obtain alternative means of contacting the patient.

Provide the patient with alternative means of contacting the licensee.

Establish a written agreement relative to the patient's access to face-to-face emergency services in the patient's geographical area in instances such as, but not limited to, the patient experiencing a suicidal or homicidal crisis.





# Records for Telepsychology

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Comply with all patient record requirements as defined in Rule 1180-01-.06.

Make reasonable efforts to protect and maintain the confidentiality of the data and information, and inform patients of the potentially increased risks, if any, of loss of confidentiality inherent in the use of electronic communications.

Ensure that confidential communications stored electronically cannot be recovered and/or accessed by unauthorized persons when the licensee disposes of electronic equipment and data.

Document in the patient record that the licensee conducted a patient encounter via electronic communication and state the type or form of electronic communication used.



# Exemptions if the Professional Relationship is Face-to Face

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Electronic communications used specific to appointment scheduling, billing, and/or the establishment of benefits and eligibility for services is exempted.

Telephone or other electronic communications made for the purpose of ensuring patient welfare in accordance with reasonable professional judgment is exempted.

# Similar Rules Apply for Supervisor-Supervisee Electronic Sessions (Part 1)

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Consider risk and benefits regarding supervisee's use of telehealth and whether the patient's condition allows telehealth supervision.

Upon initial and subsequent contact with the supervisee, make reasonable efforts to verify the identity of the supervisee.

Obtain alternative means of contacting the supervisee, and provide alternative contacts for the supervisor.

# Similar Rules Apply for Supervisor-Supervisee Electronic Sessions (Part 2)

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Must be a written agreement with the licensee and supervisee that recognizes:

- The potential risks of sudden unpredictable disruption of supervision and a plan for an alternative means of re-establishing connections
- The time and manner by which the supervisor will respond to routine electronic messages
- The emergent circumstances when the supervisor and supervisee will use alternative means of communication;
- The precautionary measures that the supervisor and supervisee will take to ensure that confidential communications stored electronically cannot be recovered and/or accessed by unauthorized persons when the licensee disposes of electronic equipment and data.



# TN Legislative Updates 2021

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- **Board of Examiners was renewed until 2026**
- **Professional Art Therapist Advisory Committee established under the Psychology Board of Examiners. No representation on the BOE**
- **Legislation creating a new definition of “store-and-forward telemedicine services” to include the use of asynchronous computer-based communications between the healthcare provider and the patient for the purpose of diagnoses, consultation, or treatment of a patient at a distant site where there may be no in-person exchange (in effect April 13, 2021)**

# Tennessee Legislative Update 2022 (ongoing)

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TPA has been working with a sponsor on a bill regarding temporary and provisional licenses for early career psychologists.

Does not fundamentally alter these licenses.

For provisional licensees, they currently lose their license immediately after failing the EPPP twice or failing the Jurisprudence exam twice. The bill would allow for a 30 day grace period after the second failure to transfer care.

For temporary licensees, they would have two chances to pass the EPPP (instead of one), and they would also have a 30 day grace period after the second failure to transfer care.