



April 2, 2020

## [COVID-19 Crisis Update](#)

### Coverage of Telemedicine Services by Health Plans

Some members have received communications from insurance carriers indicating that telemedicine will be covered only if authorized by the patients' health plan. Although NY has a telemedicine statute mandating coverage for medical care and treatment provided by means of telemedicine, this statute applies only to plans that are subject to insurance mandates under state law – typically, an individual or group health plan purchased by means of monthly insurance premiums.

However, pursuant to federal ERISA law, large multi-state employers, union health plans and self-insured businesses are not subject to the requirements of state law. Therefore, a self-insured plan or union health plan is not mandated to provide coverage for telemedicine under the New York statute. In order to determine whether a plan is subject to the New York telemedicine statute, the provider or patient must unfortunately try to determine the type and nature of the patient's plan and whether it is ERISA-exempt or subject to the requirements of state law – including the state telemedicine statute.

### Volunteer Psychiatric Services

NYSPA has received inquiries from some members about whether participation in volunteer psychiatric and mental health counseling services will subject psychiatrists to possible malpractice liability. Executive Order 202.10, signed by Governor Cuomo on March 7, 2020, expands New York's Good Samaritan law to ensure immunity from civil liability for any injury or death arising out of medical services provided in support of the State's response to the COVID-19 outbreak. This protection from liability extends to volunteer mental health counseling services provided during the current public health crisis, unless such injury or death is caused by gross negligence.

Most important, both APA Inc., the APA's endorsed malpractice carrier, and PRMS have confirmed that their policies will cover psychiatric services provided on a volunteer basis in the state where the psychiatrist is licensed to practice medicine. For additional information, please contact your individual carrier.

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