



Faith-Based Counseling & State-Licensure

MyCounselor.Online provides faith-based, specifically Christian, counseling in-person and online.

Our clients are referred to us by Christian organizations and find us online through web searches for Christian counseling. Their intent to receive religious based counseling as an expression of their free exercise of religion is expressed through their seeking referral through a faith organization or web search for faith-based counseling. It is further affirmed through written consent to religious-based counseling in our informed consent documents prior to the start of therapy and through verbal informed consent during their first session.

As providers of religious based counseling the services we provide require no government licensure at the state or federal level. Religious based counseling is not regulated by the government by virtue of the free exercise clause of the first amendment to the U.S. Constitution.

Written Informed Consent

At MyCounselor.Online we believe informed consent is very important. We endeavor to make clear in all of our marketing material the religious nature of the counseling we provide and we further make it explicitly clear in our written informed consent that all clients sign prior to receiving services. Below is the "Informed Consent to Christian Counseling" section of our written informed consent documents.

The Counseling We Provide

MyCounselor.Online is a faith-based provider of Christian Counseling for mental health and personal development primarily online over the internet using video conferencing technology.

As a provider of religious counseling services our services are not regulated by any state or federal government agency by virtue of the free exercise clause of the first amendment to the U.S. Constitution, protecting religious liberty.

Consent to Christian Counseling

In signing this document and accepting services from MyCounselor you acknowledge your intent to receive religious-based counseling in accordance with the free exercise of your religion. Further, you grant permission for MyCounselor to provide services in accordance with the principles of Christian Counseling as defined in the MyCounselor.Online Statement of Faith and the American Association of Christian Counselors Code of Ethics 2014.

State-Licenses

Although not required for providing religious-based counseling, MyCounselor.Online believes the education and experience standards for mental health state licensure are valuable benchmarks for the training of counselors. Thus, our internal certification process is built to meet or exceed the mental health state-licensure requirements in all 50 states. We also encourage and facilitate our counselors in pursuit of licensure in the states they physically reside.

Regardless of what state licensures employees may hold, the counsel provided through their employment with MyCounselor.Online is religious-based counsel protected under the free exercise clause of the first amendment to the U.S. Constitution and is not in capacities related to their state-license.

If your counselor is state-licensed, they will be licensed in the state(s) in which they physically practice. They may not be licensed with the state you are physically present in when accessing services via online counseling. Regardless of where you physically are when accessing counseling services online, we understand you to be "coming to" your counselor, by way of the technology, in the state they are physically present. By electing to receive services you consent to counseling with this understanding. You can find the state licensure status for each counselor under their profile on our website.

Terms

The terms, counsel, counseling, therapy, religious-based counseling, faith-based counseling, and Christian counseling, as used by MyCounselor.Online, are interchangeable and refer to the delivery of religious-based counseling provided to you in accordance with your free exercise of religion.

The terms counselor and therapist are also used interchangeably and refer to employees of MyCounselor.Online who provide religious-based counseling services to clients and who may or may not be state-licensed mental health providers. Our use of the adjective 'professional' is intended to communicate the quality of professionalism our counselors provide services with and is not a reference to state-licensure.

Verbal Informed Consent

In addition to our written informed consent document we further make clear the nature of the counseling we provide and any license our counselors may hold through verbal informed consent during a client's first appointment with one of our counselors. Below is our verbal informed consent script:

"Before we get started there are a couple matters of informed consent that are important for us to go over. The first, as you probably already know, is that as a counselor at MyCounselor.Online I provide faith-based counseling, specifically Christian counseling. I don't impose my values on my clients; however, my values do influence the way I work. It is also important that you know that religious based counseling, under the first amendment, is not regulated by the state or federal government. Even though I am providing religious based counseling I hold myself to the same high standards of professionalism you might find at a secular practice. It's also important that you would know that I am licensed as a _____ in the state of _____. Do you have any questions about any of these matters I can answer for you?
...Great, how can I be of help?"

A Word on Secular Online Counseling & State-Licensure

Although MyCounselor.Online is a provider of religious-based counseling, it is common for the clinical team of MyCounselor.Online to hold state-license(s) in mental health. Since many on the team are a part of the community of state-licensed practitioners we have thoughts about the subject of state-licensure and online counseling from that perspective as well.

Legality

There are a vast number of opinions on how matters of counseling, faith, and technology should be handled. MCO believes all three can be integrated for the well-being of our clients. We are happy to share how we have thought through the issue of faith-based Counseling at a distance, but understand this is only an example of how one agency has approached this complex moral, ethical, and legal area.

“Telehealth” and “telemental health” are new and evolving fields. The laws and regulations in some places are inconsistent with the laws and regulations in other places. And some laws and regulations are inconsistent in the *same* places. While the legal and ethical frameworks are still poorly defined in some jurisdictions (or even undefined), we have tried to study this issue carefully. Practically, we believe most legal and ethical issues will be solved by being truthful, obtaining informed consent from our clients, and providing excellent service.

In most relationships, the most significant jurisdiction will be the jurisdiction licensing the counselor. We understand the client to be coming to the counselor by means of the technology.

In consulting with attorneys and insurance companies, we have come to believe state boards will come to interpret their state regulations consistent with national legal and health trends that strongly encourage distance counseling, and strongly protect faith-based providers. The major federal healthcare programs focus on patient care, not patient location; so long as therapy provided conforms to the agreed upon standards of practice for the field and clients are adequately informed to be able to give consent to treatment, neither insurance nor the courts seem concerned where the client is accessing care from.

In fact, the Economic Liberty Task Force, established by the Federal Trade Commission in 2017, stated in their 2018 report “Options to Enhance Occupational License Portability”

There is little justification for the burdensome, costly, and redundant licensing processes that many states impose on qualified, licensed, out-of-state applicants. Such requirements likely inhibit multistate practice and delay or even prevent licensees from working in their occupations upon relocation to a new state. Indeed, for occupations that have not implemented any form of license portability, the harm to competition from suppressed mobility may far outweigh any plausible consumer protection benefit from the failure to provide for license portability.

- https://www.ftc.gov/system/files/documents/reports/options-enhance-occupational-license-portability/license_portability_policy_paper_0.pdf

The Veterans Administration, in pursuit of their mandate to care for veterans and as a result of limited access to care exercised a “Federal preemption” of state laws relating to health care to enable providers to treat beneficiaries through telehealth irrespective of the State, or of the location in a State, of the VA health care provider or the beneficiary.

“VA is exercising Federal preemption of conflicting State laws relating to the practice of health care providers; laws, rules, regulations, or other requirements are preempted to the extent such State laws conflict with the ability of VA health care providers to engage in the practice of telehealth while acting within the scope of their VA employment. Preemption is the minimum necessary action for VA to furnish effective telehealth services because it would be impractical for VA to lobby each State to remove any restrictions that impair VA’s ability to furnish telehealth services to beneficiaries and then wait for the State to implement appropriate changes. That process would delay the growth of telehealth services in VA, thereby delaying delivery of health care to beneficiaries. It would be costly and time-consuming for VA and would not guarantee a successful result.... For these reasons, VA is establishing a new regulation, 38 CFR 17.417, that authorizes VA health care providers to treat beneficiaries through telehealth irrespective of the State, or of the location in a State, of the VA health care provider or the beneficiary.”

- <https://www.federalregister.gov/documents/2018/05/11/2018-10114/authority-of-health-care-providers-to-practice-telehealth>

In response to the VA’s proposed ruling on the matter in 2017, made final in 2018, the Federal Trade Commission issued this official statement of endorsement in a memo released November 1, 2017 RE: RIN 2900-AQ06-Authority of Health Care Providers to Practice Telehealth

“We write in support of the Proposed Rule, which would “clarify that VA health care providers may exercise their authority to provide care through the use of telehealth, notwithstanding any State laws, rules, or licensure, registration or certification requirements to the contrary.”² Thus, if adopted, the Proposed Rule will ensure that VA telehealth providers may provide services to or from non-federal sites, such as a home, regardless of whether the provider is licensed in the state where the patient is located...

The VA’s rulemaking would also provide an important example to non-VA health care providers, state legislatures, employers, patients, and others of telehealth’s potential benefits...

We commend the VA for its proposal to reduce state licensure-related barriers to the provision of telehealth services. By clarifying that VA health care providers can provide telehealth services to or from non-federal sites regardless of whether the provider is licensed in the state where the patient is located, the Proposed Rule is likely to enhance the VA's supply of telehealth providers, improve access to services in rural and underserved locations, expand health care options for patients for whom travel is a particular challenge, improve health outcomes, and reduce the VA's costs. To the extent that the Proposed Rule generates additional support for reducing barriers to telehealth practice and thereby spurs additional competition among health care providers outside the VA system, we believe these benefits would extend to private health care markets as well. For these reasons, we support the Proposed Rule, which should benefit VA beneficiaries – including many of our nation's most vulnerable veterans – as well as non-VA health care consumers.”

- https://www.ftc.gov/system/files/documents/advocacy_documents/ftc-staff-comment-department-veterans-affairs-regarding-its-proposed-telehealth-rule/v180001vatelehealth.pdf

The message is clear at the Federal level, restrictions on telehealth and burdensome licensing process for clinicians licensed in other states are not in the best interest of the public. I believe we will see these federal precedents continue to influence state legislation as the nation moves towards a unified approach.

Meanwhile, we think it is also noteworthy that neither we nor the top law firm in the arena of tele-mental health, Epstein, Becker, Green who we hired to research the matter, can find any case where a counselor has lost a license for counseling a person in another state, so long as the counseling would have been acceptable in the Counselor's state of license.

Cases alleging unlicensed counseling typically involve persons with no license at all, and who either misrepresented their credentials or practiced after their credentials were revoked. A few ambiguous statements from state boards have caused anxiety about distance counseling in the profession, but the 'worst-case scenarios' of state board discipline have never happened.

Conclusion on Faith-Based Counseling, State Licensure, and Online Counseling

In light of the trends in federal rulings, our convictions about informed consent, consumer freedom, conscience protection, and access to care, the policy of MyCounselor.Online is:

At MyCounselor.Online, we provide faith-based counseling, specifically Christian, online to consumers regardless of their location, with counselors who may or may not hold mental health license(s) in one or more states.

Because we are a faith-based organization that provides religious advice to our clients, often in connection with churches and ministry partners, the First Amendment and other laws broadly protect Christian Counseling at a distance from unnecessary licensing and restrictions. However, at MyCounselor.Online, we require our Christian Counselors to have the professional learning and experience indicated by a state license.

We will always be truthful with our clients about to the nature of their chosen counselors' licensure in writing through the clinician bios on our website and verbally at the beginning of our first online session with the client.