

50-State Survey of Telemental/Telebehavioral Health (2017 Appendix)



TABLE OF CONTENTS

Executive Summary	3	Mississippi	130
Authors and Contributors	6	Missouri	137
Disclaimer/Usage	7	Montana	140
Alabama	8	Nebraska	146
Alaska	11	Nevada	149
Arizona	20	New Hampshire	155
Arkansas	23	New Jersey	161
California	31	New Mexico	184
Colorado	32	New York	188
Connecticut	35	North Carolina	201
Delaware	36	North Dakota	206
District of Columbia	42	Ohio	209
Florida	45	Oklahoma	213
Georgia	48	Oregon	216
Hawaii	54	Pennsylvania	219
Idaho	66	Rhode Island	221
Illinois	77	South Carolina	225
Indiana	79	South Dakota	236
Iowa	89	Tennessee	238
Kansas	92	Texas	247
Kentucky	95	Utah	262
Louisiana	102	Vermont	272
Maine	109	Virginia	279
Maryland	118	Washington	289
Massachusetts	122	West Virginia	294
Michigan	123	Wisconsin	302
Minnesota	128	Wyoming	306

To download the original 2016 Survey, visit www.ebglaw.com/telesurvey.

EXECUTIVE SUMMARY

In June 2016, Epstein Becker Green (“EBG”) published its *50-State Survey of Telemental/Telebehavioral Health* (“Survey”), a comprehensive and extensive compilation of research regarding the laws, regulations, and regulatory policies affecting the practice of telemental/telebehavioral health in all 50 states and the District of Columbia. Since EBG’s publication of the Survey, states have been incredibly active as far as legislating with respect to the provision of telehealth services. For this reason, EBG’s latest release, the *2017 Appendix to the 50-State Survey of Telemental/Telebehavioral Health* (“Appendix”), is a summary of the recent changes to the laws, regulations, and policies discussed in the Survey. The Appendix, like the Survey, includes hyperlinks to original source materials (e.g., relevant laws, regulations, and agency guidance).

Increased Adoption and Expansion of Telehealth Services

On a nearly nationwide basis, states have laid out a fairly comprehensive regulatory framework within which telehealth providers can operate. Since 2016, an increasing number of states have addressed key regulatory questions posed by stakeholders regarding issues such as establishing physician-patient relationships and remote prescribing. For example, this past year, a number of states, including Arkansas, Hawaii, Indiana, Louisiana, and Maine, established regulations allowing physician-patient relationships and evaluations to be established via real-time audio and visual telehealth technologies. Separately, and even among states that have long had telehealth parity laws in place, many states modified their laws or enacted additional laws intended to clarify and refine the regulatory framework within which telehealth services may be provided in these states. In fact, only two states (Connecticut and Massachusetts) did not make any substantive changes to their telehealth laws since the publication of the Survey in June 2016.

Additionally, between September 2016 and January 2017 alone, 31 states and the District of Columbia enacted telehealth private payer laws.¹ The Centers for Medicare & Medicaid Services also reported a 28 percent increase in Medicare payments for telehealth services in 2016.² Telehealth providers continue to expand their service offerings while government institutions, such as the Department of Veterans Affairs (“VA”), are preparing to more deeply integrate telehealth services into their programs. The VA recently proposed to expand providers’ capabilities to conduct telehealth visits with veterans across state borders, regardless of state licensing rules, and to allow these visits to occur in locations other than VA facilities (including veterans’ homes).³

¹ See [Center for Connected Health Policy, *Telehealth Private Payer Laws: Impact and Issues 1, 2* \(Aug. 2017\)](#).

² See [Darius Tahir, *Telemedicine Money Jumping*, POLITICO MORNING EHEALTH \(Aug. 10, 2017\)](#).

³ See [Rachel Z. Arndt, *VA Looks to Ease Telehealth Regulations*, MODERN HEALTHCARE \(Sept. 29, 2017\)](#).

A major accelerant toward continued increases in the utilization of telehealth services will most likely be the Interstate Medical Licensure Compact (“Compact”) that went into full effect on April 6, 2017.⁴ Physicians in Compact states (currently, 22 states) now have an expedited process for obtaining licenses to practice in multiple states.⁵ The intent behind the Compact is to encourage states to put in place regulatory frameworks that will increase interstate delivery of telehealth services, thereby increasing payor coverage of such services (including behavioral health services) in states that may lack access to such services. Similar to the Compact, the Psychology Interjurisdictional Compact (“PSYPACT”) and the Advanced Practice Registered Nurse Compact (“APRN Compact”) would allow psychiatrists and advanced practice registered nurses to provide telehealth services to patients across jurisdictional boundaries. Both the PSYPACT and the APRN Compact will become operational only when the required numbers of states enact these Compacts (seven states are required for the PSYPACT and 10 states are required for the APRN Compact).⁶ Moreover, trends toward accelerated adoption of coverage and reimbursement parameters supporting telehealth services will further help to build a platform from which states will be encouraged to continue examining and enacting legislative, regulatory, and policy reforms concerning telehealth services and the integration of telehealth technologies into health care systems.

Increased Growth of Telemental/Telebehavioral Services

The provision of telemental/telebehavioral services has also continued to trend upward as health care providers have become more interested in using telehealth platforms to connect with their patients.⁷ Regulations for physicians (e.g., psychiatrists) still are the most prevalent, as compared to similar regulations for non-physician providers (e.g., psychologists, social workers, therapists, and counselors). According to the American Psychiatric Association (“APA”), “telepsychiatry—in the form of live interactive videoconferencing—has become a core tool of daily clinical practice.”⁸ The current prevalence of telepsychiatric services has increased the need for homogeneous training within psychiatry practice groups, especially concerning administrative and regulatory knowledge, as well as clinical and other professional skills (e.g., clinical process modification and emergency management).⁹ The APA has also noted an increased use of telepsychiatry in the primary care setting, particularly within the children and adolescent demographics.¹⁰ As part of New York’s recently promulgated rules on telemedicine (much of the previous regulatory guidance was limited to a series of agency

4 See [Interstate Medical Licensure Compact Commission, Press Release, Interstate Medical Licensure Compact Commission Issues First License \(Apr. 21, 2017\)](#).

5 See [Interstate Medical Licensure Compact Commission, Facts About the IMLCC, INTERSTATE MEDICAL LICENSURE COMPACT \(last visited Oct. 3, 2017\)](#).

6 [American Telemedicine Association, 2017 State Licensure Compact Legislation Tracking \(as of July 2017\)](#). Presently, three states have enacted the PSYPACT, with four additional states considering its adoption. Three states also have enacted the APRN Compact, with an additional two states considering its adoption. *Id.*

7 [Eric Wicklund, Telehealth Trends: Telemental Health, Direct-to-Consumer Care, MHEALTH INTELLIGENCE \(Mar. 23, 2017\)](#).

8 [Jay Shore, M.D., M.P.H., How Do You Train for Telepsychiatry? AMERICAN PSYCHIATRIC ASSOCIATION \(Sept. 25, 2017\)](#).

9 *Id.*

10 [Shabana Khan, M.D., Current Trends in Child and Adolescent Telepsychiatry, American Psychiatric Association \(Jul. 20, 2017\)](#).

statements published on the New York State Department of Health’s website), there are even specific provisions regarding telepsychiatry services. West Virginia recently approved a bill that would expand access to mental and behavioral medications via telehealth visitations.¹¹

In addition, states have started to expand regulatory frameworks with respect to psychologists and other types of non-physician behavioral health providers. In New Jersey, for example, a newly enacted telemedicine law broadly defines “health care provider,” and this will allow for greater utilization of telehealth modalities by a variety of health care providers, not just physicians.

* * *

The content discussed in the Appendix illustrates that general attitudes toward telehealth services among states are extremely positive and that there has been gradual acceptance of telehealth services as a means toward improving access to health care services across the United States. Likewise, the depth of new information captured in the Appendix demonstrates how states have also started to expand the regulatory infrastructure for telemental/telebehavioral health services.

¹¹ [Juliet Van Wagenen, *Telemental Health: Regulations Make Room for New Programs*, HEALTHTECH \(Mar. 15, 2017\).](#)

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ALABAMA

What is the definition of “telemedicine” or “telehealth”?

Updated link and citation: [Alabama Medicaid, Provider Billing Manual, ch. 28 \(effective July 2017\), at 28-17.](#)

SOCIAL WORKERS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

A license issued by the Alabama State Board of Social Work Examiners is required:

[N]o person may engage in the practice of social work, holding himself or herself forth as a ‘social worker,’ a ‘licensed bachelor social worker,’ a ‘licensed master social worker,’ or a ‘licensed independent clinical social worker,’” unless such person was licensed before August 1, 2016 “as a graduate social worker or a certified social worker.”

Additionally, “any license issued to a graduate social worker or a certified social worker prior to [August 1, 2016] shall continue to be valid for the duration of the license or until the appropriate redesignated license is issued by the board. Any person licensed by the board as a graduate social worker or a certified social worker on that date may continue to use the prior designated licensure titles for a period of two years or as otherwise provided by the board.”

[ALA. CODE § 34-30-20.](#)

MARRIAGE/FAMILY THERAPISTS

What is the regulatory body in the state that governs the practice of marriage/family therapy?

Updated link and citation: [Alabama Board of Examiners in Marriage and Family Therapy](#)

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

[A]ll physicians with an Alabama license, enrolled as a provider with the Alabama Medicaid Agency, regardless of location, are eligible to participate in the Telemedicine Program to provide medically necessary



ALABAMA

telemedicine services to Alabama Medicaid eligible recipients. In order to participate in the telemedicine program:

a. Physicians must be enrolled with Alabama Medicaid with a specialty type of 931 (Telemedicine Service).

b. Physician must submit the Telemedicine Service Agreement/Certification form which is located on the Medicaid website at: www.medicaid.alabama.gov.

c. Physician must obtain prior consent from the recipient before services are rendered, this will count as part of each recipient's benefit limit of 14 annual physician office visits currently allowed. A sample recipient consent form is located on the Medicaid website at: www.medicaid.alabama.gov.

Services must be administered via an interactive audio and video telecommunications system which permits two-way communication between the distant site physician and the origination site where the recipient is located (this does not include a telephone conversation, electronic mail message, or facsimile transmission between the physician, recipient, or a consultation between two physicians). Telemedicine health care providers shall ensure that the telecommunication technology and equipment used at the recipient site, and at the physician site, is sufficient to allow the health care physician to appropriately evaluate, diagnose, and/or treat the recipient for services billed to Medicaid. Transmissions must utilize an acceptable method of encryption adequate to protect the confidentiality and integrity of the transmission information. Transmissions must employ acceptable authentication and identification procedures by both the sender and the receiver.

The provider shall maintain appropriately trained staff, or employees, familiar with the recipient's treatment plan, immediately available in-person to the recipient receiving a telemedicine service to attend to any urgencies or emergencies that may occur during the session.

The physician shall implement confidentiality protocols that include, but are not limited to:

a. specifying the individuals who have access to electronic records; and

b. usage of unique passwords or identifiers for each employee or other person with access to the client records; and



ALABAMA

c. ensuring a system to prevent unauthorized access, particularly via the internet; and

d. ensuring a system to routinely track and permanently record access to such electronic medical information

These protocols and guidelines must be available to inspection at the telemedicine site, and to the Medicaid Agency upon request.

[Alabama Medicaid, *Provider Billing Manual*, ch. 28 \(effective July 2017\), at 28-17.](#)

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

Updated link and citation: [ALA. CODE § 20-2-2\(4\)](#).



ALASKA

What is the definition of “telemedicine” or “telehealth”?

“Telemedicine means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of medical data through audio, video, or data communications that are engaged in over two or more locations between providers who are physically separated from the patient or from each other.”

[ALASKA ADMIN. CODE tit. 7, § 12.499\(22\).](#)

Alaska’s Medical Assistance (Medicaid) statute defines the term “telehealth” to mean “the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of health care data through audio, visual, or data communications, performed over two or more locations between providers who are physically separated from the recipient or from each other or between a provider and a recipient who are physically separated from each other.”

[ALASKA STAT. § 47.05.270\(e\).](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Alaska licensure is required, with limited exceptions.

Alaska’s Medical Practice Act provides that its provisions (including its physician licensure requirements) do not apply to “a physician or osteopath who is not a resident of [Alaska], who is asked by a physician or osteopath licensed in [Alaska] to help in the diagnosis or treatment of a case. . . .”

[ALASKA STAT. § 08.64.370\(2\).](#)

However, this statutory consultation exception to the licensure requirement is limited by Alaska State Medical Board Guidelines, which provide the following:

In order to provide care for a patient in the State of Alaska (including reading and interpreting films, samples, or images, or otherwise diagnosing), an out-of-state physician must be licensed by the Alaska State Medical Board. This requirement also applies to second opinions if the physician is charging a fee for providing the opinion. The only exception is for a “curbside” opinion given as a courtesy to a colleague (a licensed physician) for which there is no charge.



ALASKA

[Alaska State Medical Board, Policies and Procedures, Board Issued Guidelines: Telemedicine \(last revised Aug. 2017\).](#)

Telemedicine may be practiced legally in the state as long as the physician holds a “current, active license issued by the Alaska State Medical Board.”

[Alaska State Medical Board, Policies and Procedures, Board Issued Guidelines: Telemedicine \(last revised Aug. 2017\).](#)

In order to provide telemedicine services, a business must be registered with the Alaska Department of Commerce, Community, and Economic Development’s telemedicine business registry.

[ALASKA STAT. § 44.33.381.](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Generally, it is considered unprofessional conduct under Alaska’s State Medical Board regulations for a physician to prescribe, dispense, or furnish a prescription medication to a person without first conducting a physical examination of that person, unless the physician has a patient-physician relationship with the person. Furthermore, physicians are prohibited from “providing treatment, rendering a diagnosis, or prescribing medications based solely on a patient-supplied history” received via telephone, facsimile, or electronic format.

[ALASKA ADMIN. CODE tit. 12, §§ 40.967\(27\) & \(29\).](#)

However, Alaska’s newly enacted Telemedicine Law states the following:

The board may not impose disciplinary sanctions on a physician for rendering a diagnosis, providing treatment, or prescribing, dispensing, or administering a prescription drug that is not a controlled substance to a person without conducting a physical examination if:

- (1) the physician or another licensed health care provider or physician in the physician's group practice is available to provide follow-up care; and
- (2) the physician requests that the person consent to sending a copy of all records of the encounter to the person's primary care provider if the prescribing physician is not the person's primary care provider, and, if the patient consents, the physician sends the records to the person's primary care provider.



ALASKA

[ALASKA STAT. § 08.64.364\(a\).](#)

[A] physician may not (1) prescribe, dispense, or administer an abortion-inducing drug under [this section] unless the physician complies with AS 18.16.010; or (2) prescribe, dispense, or administer a prescription drug in response to an Internet questionnaire or electronic mail message to a person with whom the physician does not have a prior physician-patient relationship.

[ALASKA STAT. § 08.64.364\(d\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if the licensee

- (1) or another licensed health care provider is available to provide follow-up care;
- (2) requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and
- (3) meets the requirements established by the board in regulation.

[ALASKA STAT. § 08.84.120\(c\).](#)

PSYCHOLOGISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Telemedicine may be practiced legally in the state as long as the physician holds a "current, active license issued by the Alaska State Medical Board."

[Alaska State Medical Board, Policies and Procedures, Board Issued Guidelines: Telemedicine \(last revised Aug. 2017\).](#)



ALASKA

In order to provide telemedicine services, a business must be registered with the Alaska Department of Commerce, Community, and Economic Development's telemedicine business registry.

[ALASKA STAT. § 44.33.381.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if:

- (1) the licensee or another licensed health care provider is available to provide follow-up care;
- (2) the licensee requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and
- (3) the licensee meets the requirements established by the board in regulation.

[ALASKA STAT. § 08.86.204\(c\).](#)

SOCIAL WORKERS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

In order to provide telemedicine services, a business must be registered with the Alaska Department of Commerce, Community, and Economic Development's telemedicine business registry.

[ALASKA STAT. § 44.33.381.](#)



ALASKA

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if:

- (1) the licensee or another licensed health care provider is available to provide follow-up care;
- (2) the licensee requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and
- (3) the licensee meets the requirements established by the board in regulation.

[ALASKA STAT. § 08.95.050\(b\).](#)

COUNSELORS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Alaska licensure is required.

The Alaska Board of Professional Counselors' website states the following:

The Board's position is that to provide services to Alaskans, you should be licensed in Alaska. They support the AASCB [(American Ass'n of State Counseling Boards)] stand that, if you have a patient in a state you should be licensed in that state. Per our statutes, we do not have practice protection, but one cannot represent them self as a Licensed Professional Counselor in Alaska if they are not an LPC licensed in the state of Alaska.

[State of Alaska, Department of Commerce, Community, and Economic Development, Corporations, Business & Professional Licensing, Board of Professional Counselors, *Distance Counseling* \(statement cited as being from minutes of Board's Jan. 2011 meeting\).](#)



ALASKA

The website further states the following:

08.29.100. Unlicensed use of title prohibited.

(a) A person who is not licensed under this chapter may not

(1) profess to be a licensed professional counselor, a professional counselor, or a licensed counselor; or

(2) make use of a title, words, letters, or abbreviations that may reasonably be confused with the title of 'licensed professional counselor,' 'professional counselor,' or 'licensed counselor.'

[State of Alaska, Department of Commerce, Community, and Economic Development, Corporations, Business & Professional Licensing, Board of Professional Counselors, Distance Counseling.](#)

In order to provide telemedicine services, a business must be registered with the Alaska Department of Commerce, Community, and Economic Development's telemedicine business registry.

[ALASKA STAT. § 44.33.381.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if:

(1) the licensee or another licensed health care provider is available to provide follow-up care;

(2) the licensee requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and

(3) the licensee meets the requirements established by the board in regulation.

[ALASKA STAT. § 08.29.400\(b\).](#)



ALASKA

MARRIAGE/FAMILY THERAPISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

The Alaska Board of Marital and Family Therapy's website states the following:

Anyone considering utilizing e-therapy, or on-line therapy needs to know that if you are living in Alaska and receiving e-therapy, or on-line therapy, from a therapist outside of Alaska, there is no process available for the regulation of that therapist. Please inquire with the therapist as to their credentials and license.

[State of Alaska, Department of Commerce, Community, and Economic Development, Corporations, Business & Professional Licensing, Board of Marital & Family Therapy, Notice Regarding e-Therapy.](#)

In order to provide telemedicine services, a business must be registered with the Alaska Department of Commerce, Community, and Economic Development's telemedicine business registry.

[ALASKA STAT. § 44.33.381.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of marriage/family therapy via telemedicine/telehealth that meet the standard of care for the state?

The board may not impose disciplinary sanctions on a licensee for the evaluation, diagnosis, or treatment of a person through audio, video, or data communications when physically separated from the person if:

- (1) the licensee or another licensed health care provider is available to provide follow-up care;
- (2) the licensee requests that the person consent to sending a copy of all records of the encounter to a primary care provider if the licensee is not the person's primary care provider and, if the person consents, the licensee sends the records to the person's primary care provider; and
- (3) the licensee meets the requirements established by the board in regulation.

[ALASKA STAT. § 08.63.210\(c\).](#)



ALASKA

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

In order to provide telemedicine services, a business must be registered with the Alaska Department of Commerce, Community, and Economic Development's telemedicine business registry.

[ALASKA STAT. § 44.33.381.](#)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes, but an Advanced Nurse Practitioner ("ANP") seeking to prescribe must apply for and obtain authorization to prescribe from the Alaska Board of Nursing (Nurse Practitioners also may apply for controlled substance prescriptive and dispensing authority for controlled substances in Schedules II-V).

[ALASKA ADMIN. CODE tit. 12, §§ 44.440 & 44.445.](#)

MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

The Alaska Board of Professional Counselors recommends as guidance the National Board for Certified Counselors, Inc. ("NBCC") Internet Counseling Guidelines, which state that counselors must first "determine if a client is a minor and therefore in need of parental/guardian consent."

[National Board for Certified Counselors, Inc., The Practice of Internet Counseling](#) (cited on [State of Alaska, Department of Commerce, Community, and Economic Development, Corporations, Business & Professional Licensing, Board of Professional Counselors, Distance Counseling](#)).



ALASKA

CONTROLLED SUBSTANCES

What are the requirements/laws governing the prescribing of “controlled” substances”?

The Alaska Board of Pharmacy has established a controlled substance prescription database, which “may not be shared with the federal government.”

[ALASKA STAT. § 17.30.200\(d\).](#)



ARIZONA

What is the definition of “telemedicine” or “telehealth”?

Updated links and citations:

[ARIZ. REV. STAT. § 36-3601\(3\).](#)

[ARIZ. REV. STAT. § 20-841.09\(E\)\(3\).](#)

What is the definition of “telemental,” “telemental,” and “telepsychiary”?

Updated link and citation: [ARIZ. REV. STAT. § 36-3601\(2\).](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link and citation: [ARIZ. REV. STAT. § 32-1401.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link and citation: [ARIZ. REV. STAT. § 36-3602\(A\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Updated link and citation: [ARIZ. REV. STAT. § 32-1401\(27\)\(ss\).](#)

PSYCHOLOGISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link and citation: [ARIZ. REV. STAT. § 32-2075\(A\)\(4\).](#)



ARIZONA

SOCIAL WORKERS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link and citation: [ARIZ. REV. STAT. § 32-3271\(A\)](#).

MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

Updated link and citation: [ARIZ. REV. STAT. § 36-2272\(A\)](#).

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

The current statute reads as follows:

All contracts issued, delivered or renewed on or after January 1, 2015 must provide coverage for health care services that are provided through telemedicine if the health care service would be covered were it provided through in-person consultation between the subscriber and a health care provider and provided to a subscriber receiving the service in a rural region of this state. The contract may limit the coverage to those health care providers who are members of the corporation's provider network.

[ARIZ. REV. STAT. § 20-841.09\(A\) \(effective until Jan. 1, 2018\)](#).

Effective on Jan. 1, 2018, the statute will read as follows:

All contracts issued, delivered or renewed on or after January 1, 2018 must provide coverage for health care services that are provided through telemedicine if the health care service would be covered were it provided through in-person consultation between the subscriber and a health care provider and provided to a subscriber receiving the service in this state. The contract may limit the coverage



ARIZONA

to those health care providers who are members of the corporation's provider network.

[ARIZ. REV. STAT. § 20-841.09\(A\) \(effective Jan. 1, 2018\).](#)

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

“AHCCCS covers medically necessary services provided via telemedicine.”

[Arizona Health Care Cost Containment System, Fee-for-Service Provider Manual, ch. 10 \(rev. Oct. 5, 2016\), at 10-37.](#)

“Behavioral health services are covered for Title XIX (Medicaid) and Title XXI (KidsCare) recipients.

Covered behavioral health services include (real time only):

- Diagnostic consultation and evaluation
- Psychotropic medication adjustment and monitoring
- Individual and family counseling
- Case management

For real time behavioral health services, the recipient’s physician, case manager, behavioral health professional, or tele-presenter may be present with the recipient during the consultation.”

[Arizona Health Care Cost Containment System, Fee-for-Service Provider Manual, ch. 10 \(rev. Oct. 5, 2016\), at 10-38.](#)

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

Updated link and citation: [ARIZ. REV. STAT. § 32-1901\(15\).](#)

What are the requirements/laws governing the prescribing of “controlled” substances”?

Updated link and citation: [ARIZ. REV. STAT. § 32-2951.](#)



ARKANSAS

What is the definition of “telemedicine” or “telehealth”?

Updated link: [ARK. CODE ANN. § 23-79-1601.](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“A healthcare professional who is treating patients in Arkansas through telemedicine shall be fully licensed or certified to practice in Arkansas and is subject to the rules of the appropriate state licensing or certification board.”

[ARK. CODE ANN. § 17-80-118\(d\)\(1\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [ARK. CODE ANN. § 17-80-118.](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Updated link: [ARK. CODE ANN. § 17-80-118.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

None identified.

However, a newly enacted statutory definition of “telemedicine” describes it as “real-time two-way electronic audio-visual communications, including without limitation the application of secure video conferencing.” [ARK. CODE ANN. § 17-80-118\(a\)\(6\).](#)

Separately, the statute provides that “[s]tore and forward technology shall not be considered telemedicine.” [ARK. CODE ANN. § 17-80-118\(b\)\(4\)\(A\).](#)



ARKANSAS

PSYCHOLOGISTS

What is the regulatory body in the state that governs the practice of psychology?

Updated link: [Arkansas State Board of Psychology](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [ARK. CODE ANN. § 17-80-118.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A healthcare professional at a distant site shall not utilize telemedicine with respect to a patient located in Arkansas unless a professional relationship exists between the healthcare professional and the patient or the healthcare professional otherwise meets the requirements of professional relationship. . . .” [ARK. CODE ANN. § 17-80-118\(e\)\(1\).](#)

“‘Professional relationship’ means at minimum a relationship established between a healthcare professional and a patient when:

- A. The healthcare professional has previously conducted an in-person examination and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;
- B. The healthcare professional personally knows the patient and the patient’s relevant health status through an ongoing personal or professional relationship, and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;
- C. The treatment is provided by a healthcare professional in consultation with, or upon referral by, another healthcare professional who has an ongoing relationship with the patient and who has agreed to supervise the patient’s treatment, including follow-up care;
- D. An on-call or cross-coverage arrangement exists with the patient’s regular treating healthcare professional;
- E. A relationship exists in other circumstances as defined by rule of the Arkansas State Medical Board for healthcare professionals under its jurisdiction and their patients; or
- F. A relationship exists in other circumstances as defined by rule of a licensing or certification board for other healthcare professionals under the jurisdiction



ARKANSAS

of the appropriate board and their patients if the rules are no less restrictive than the rules of the Arkansas State Medical Board.”

[ARK. CODE ANN. § 17-80-118\(a\)\(4\).](#)

Exceptions to this requirement include “[e]mergency situations where the life or health of the patient is in danger or imminent danger; or . . . simply providing information of a generic nature, not meant to be specific to an individual patient.”

[ARK. CODE ANN. § 17-80-118\(e\)\(2\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

None identified.

However, a newly enacted statutory definition of “telemedicine” describes it as “real-time two-way electronic audio-visual communications, including without limitation the application of secure video conferencing.” [ARK. CODE ANN. § 17-80-118\(a\)\(6\).](#)

Separately, the statute provides that “[s]tore and forward technology shall not be considered telemedicine.” [ARK. CODE ANN. § 17-80-118\(b\)\(4\)\(A\).](#)

SOCIAL WORKERS

What is the regulatory body in the state that governs the practice of social work?

Updated link: [Arkansas Social Work Licensing Board](#)

What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

None identified.

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Arkansas defines “healthcare professional” as “a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession.” [ARK. CODE ANN. § 17-80-118\(a\)\(2\).](#)



ARKANSAS

The same conditions that apply to psychiatrists appear also to apply to all “healthcare professionals,” and the Arkansas Code (Title 17, Subtitle 3) groups social workers in the same “medical professions” category as physicians and other types of healthcare providers.

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A healthcare professional at a distant site shall not utilize telemedicine with respect to a patient located in Arkansas unless a professional relationship exists between the healthcare professional and the patient or the healthcare professional otherwise meets the requirements of professional relationship. . . .” [ARK. CODE ANN. § 17-80-118\(e\)\(1\)](#).

“‘Professional relationship’ means at minimum a relationship established between a healthcare professional and a patient when:

- A. The healthcare professional has previously conducted an in-person examination and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;
- B. The healthcare professional personally knows the patient and the patient’s relevant health status through an ongoing personal or professional relationship, and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;
- C. The treatment is provided by a healthcare professional in consultation with, or upon referral by, another healthcare professional who has an ongoing relationship with the patient and who has agreed to supervise the patient’s treatment, including follow-up care;
- D. An on-call or cross-coverage arrangement exists with the patient’s regular treating healthcare professional;
- E. A relationship exists in other circumstances as defined by rule of the Arkansas State Medical Board for healthcare professionals under its jurisdiction and their patients; or
- F. A relationship exists in other circumstances as defined by rule of a licensing or certification board for other healthcare professionals under the jurisdiction of the appropriate board and their patients if the rules are no less restrictive than the rules of the Arkansas State Medical Board.”

[ARK. CODE ANN. § 17-80-118\(a\)\(4\)](#).

Exceptions to this requirement include “[e]mergency situations where the life or health of the patient is in danger or imminent danger; or . . . simply providing information of a generic nature, not meant to be specific to an individual patient.”



ARKANSAS

[ARK. CODE ANN. § 17-80-118\(e\)\(2\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

None identified.

However, a newly enacted statutory definition of “telemedicine” describes it as “real-time two-way electronic audio-visual communications, including without limitation the application of secure video conferencing.” [ARK. CODE ANN. § 17-80-118\(a\)\(6\).](#)

Separately, the statute provides that “[s]tore and forward technology shall not be considered telemedicine.” [ARK. CODE ANN. § 17-80-118\(b\)\(4\)\(A\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What is the regulatory body in the state that governs the practice of advanced practice nursing?

Updated link: [Arizona State Board of Nursing](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“A healthcare professional who is treating patients in Arkansas through telemedicine shall be fully licensed or certified to practice in Arkansas and is subject to the rules of the appropriate state licensing or certification board.” [ARK. CODE ANN. § 17-80-118\(d\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A healthcare professional at a distant site shall not utilize telemedicine with respect to a patient located in Arkansas unless a professional relationship exists between the healthcare professional and the patient or the healthcare professional otherwise meets the requirements of professional relationship. . . .” [ARK. CODE ANN. § 17-80-118\(e\)\(1\).](#)

“‘Professional relationship’ means at minimum a relationship established between a healthcare professional and a patient when:



ARKANSAS

- A. The healthcare professional has previously conducted an in-person examination and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;
- B. The healthcare professional personally knows the patient and the patient's relevant health status through an ongoing personal or professional relationship, and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;
- C. The treatment is provided by a healthcare professional in consultation with, or upon referral by, another healthcare professional who has an ongoing relationship with the patient and who has agreed to supervise the patient's treatment, including follow-up care;
- D. An on-call or cross-coverage arrangement exists with the patient's regular treating healthcare professional;
- E. A relationship exists in other circumstances as defined by rule of the Arkansas State Medical Board for healthcare professionals under its jurisdiction and their patients; or
- F. A relationship exists in other circumstances as defined by rule of a licensing or certification board for other healthcare professionals under the jurisdiction of the appropriate board and their patients if the rules are no less restrictive than the rules of the Arkansas State Medical Board."

[ARK. CODE ANN. § 17-80-118\(a\)\(4\).](#)

Exceptions to this requirement include "[e]mergency situations where the life or health of the patient is in danger or imminent danger; or . . . simply providing information of a generic nature, not meant to be specific to an individual patient."

[ARK. CODE ANN. § 17-80-118\(e\)\(2\).](#)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

"An advanced practice registered nurse with a certificate of prescriptive authority may receive and prescribe drugs, medicines, or therapeutic devices appropriate to the advanced practice registered nurse's area of practice in accordance with rules established by the Arkansas State Board of Nursing." [ARK. CODE ANN. § 17-87-310\(b\)\(1\).](#)

As it relates to telemedicine/telehealth, "[t]he standards of appropriate practice in traditional healthcare professional-patient settings shall govern the licensed healthcare professional's treatment recommendations made via electronic means, including issuing a prescription via telemedicine." [ARK. CODE ANN. § 17-80-118\(b\)\(1\).](#)



ARKANSAS

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

None identified.

However, a newly enacted statutory definition of “telemedicine” describes it as “real-time two-way electronic audio-visual communications, including without limitation the application of secure video conferencing.” [ARK. CODE ANN. § 17-80-118\(a\)\(6\)](#).

Separately, the statute provides that “[s]tore and forward technology shall not be considered telemedicine.” [ARK. CODE ANN. § 17-80-118\(b\)\(4\)\(A\)](#).

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

Updated link: [ARK. CODE ANN. § 17-80-118](#).

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

“A health benefit plan shall cover the services of a physician who is licensed by the Arkansas State Medical Board for healthcare services through telemedicine on the same basis as the health benefit plan provides coverage for the same healthcare services provided by the physician in person.” [ARK. CODE ANN. § 23-79-1602\(c\)\(1\)](#).

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

“The combined amount of reimbursement that a health benefit plan allows for the compensation to the distant site physician and the originating site shall not be less than



ARKANSAS

the total amount allowed for healthcare services provided in person.” [ARK. CODE ANN. § 23-79-1602\(d\)\(1\)](#).

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

“This subchapter shall apply to all health benefit plans delivered, issued for delivery, reissued, or extended in Arkansas on or after January 1, 2016, or at any time when any term of the health benefit plan is changed or any premium adjustment is made thereafter.” [ARK. CODE ANN. § 23-79-1602\(a\)\(1\)](#).

CONTROLLED SUBSTANCES

What are the requirements/laws governing the prescribing of “controlled” substances”?

“Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II may be dispensed without the written prescription of a practitioner or the oral, faxed, or electronic prescription of a practitioner, if issued in compliance with federal law and regulations.” [ARK. CODE ANN. § 5-64-308\(a\)](#).



CALIFORNIA

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Updated link: [CAL. BUS. & PROF. CODE § 2836.1.](#)

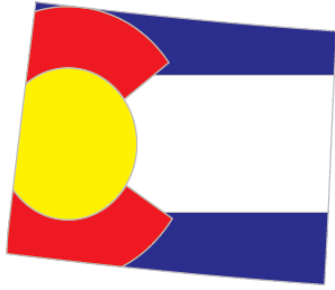
CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

Updated link: [CAL. HEALTH & SAFETY CODE § 11053-58.](#)

What are the requirements/laws governing the prescribing of “controlled” substances”?

Updated link: [CAL. HEALTH & SAFETY CODE § 11153.](#)



COLORADO

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

The teletherapy policy, which is applicable to psychologists, social workers, counselors, and marriage and family therapists, states that teletherapy providers are responsible for “ensuring that the therapeutic means of communication includes confidentiality and computer/cyber security”

[Colorado Department of Regulatory Agencies, State Board of Psychologist Examiners, Laws, Rules and Policies, 30-1 Teletherapy Policy](#) (for access to the *Teletherapy Policy*, click “Psychologist Policies” from this page).

The Colorado Medical Assistance (Medicaid) program has the following specific telemedicine confidentiality requirements for providers:

“All Medicaid providers using telemedicine to deliver Medicaid services must employ existing quality-of-care protocols and member confidentiality guidelines when providing telemedicine services. . . . Recordkeeping should comply with Medicaid requirements in 10 CCR 2505-10, Section 8.130.”

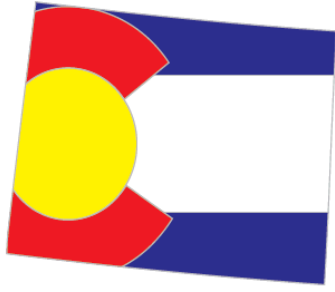
[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 3.](#)

“Transmissions must be performed on dedicated secure lines or must utilize an acceptable method of encryption adequate to protect the confidentiality and integrity of the transmission. Transmissions must employ acceptable authentication and identification procedures by both the sender and the receiver.”

[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 3.](#)

Providers of telemedicine services must implement confidentiality procedures that include, but are not limited to:

- Specifying the individuals who have access to electronic records.
- Using unique passwords or identifiers for each employee or other person with access to the client records.
- Ensuring a system to routinely track and permanently record such electronic medical information.
- Members must be advised of their right to privacy and that their selection of a location to receive telemedicine services in private or public environments is at the member’s discretion.



COLORADO

[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 3-4.](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Both primary care physicians and medical specialists may qualify for reimbursement.

“In order for a primary care provider to be reimbursed for Telemedicine Direct Member Services as the ‘distant provider’ the primary care provider must be able to facilitate an in-person visit in the state of Colorado if necessary for treatment of member’s condition.”

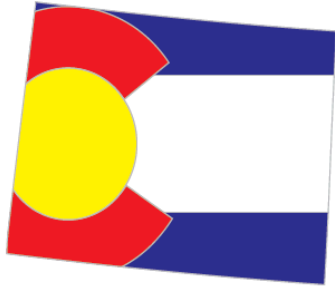
[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 3.](#)

Additionally, the following are listed under “Not Covered Services”:

- Telemedicine does not include consultations provided by telephone (interactive audio) or facsimile machines.
- Providers may only bill procedure codes which they are already eligible to bill.
- Services appropriately billed to managed care should continue to be billed to managed care. All managed care requirements must be met for services billed to managed care. Managed care may or may not reimburse telemedicine costs.
- Colorado Medicaid does not pay for provider or patient education when education is the only service provided via telemedicine.
- Services not otherwise covered by Colorado Medicaid are not covered when delivered via telemedicine.
- The use of telecommunications equipment for delivery of services does not change prior authorization requirements established for the services being provided.

[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 2.](#)

The Medicaid requirement for face-to-face contact between provider and member may be waived prior to treating the member through telemedicine for the first time. The rendering provider must furnish each member with all of the following written statements which must be signed (electronic signatures will be accepted) by the member or the member’s legal representative:



COLORADO

- The member retains the option to refuse the delivery of health care services via telemedicine at any time without affecting the member's right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the member would otherwise be entitled.
- All applicable confidentiality protections shall apply to the services.
- The member shall have access to all medical information resulting from the telemedicine services as provided by applicable law for member access to his or her medical records.

These requirements do not apply in an emergency.

[Colorado Medical Assistance Program, Telemedicine Manual \(rev. Nov. 2016\), at 4.](#)

CONTROLLED SUBSTANCES

How are "controlled substances" defined by the state?

Colorado defines the term "controlled substance" to mean "a drug, substance, or immediate precursor included in schedules I through V of part 2 of this article, including cocaine, marijuana, marijuana concentrate, cathinones, any synthetic cannabinoid, and salvia divinorum."

[COLO. REV. STAT. § 18-18-102\(5\).](#)



CONNECTICUT

The information provided in Epstein Becker Green's 2016 survey for the state of Connecticut remains current as of June 2017.



DELAWARE

SOCIAL WORKERS

What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

According to regulations issued by the Delaware Board of Clinical Social Work Examiners in December 2016, a social worker “shall use telehealth only where appropriate based on his or her professional judgment” and “only where it is appropriate for the client, and decisions regarding the appropriate use of telehealth shall be made on a case-by-case basis.”

[DEL. CODE ANN. tit. 24, § 3900\(10.1 and 10.5\).](#)

“Prior to delivering services by telehealth, the licensee shall conduct a risk-benefit analysis and document that:

- The client’s presenting problems and apparent conditions are consistent with the use of telehealth to the client’s benefit; and
- The client 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.”

[DEL. CODE ANN. tit. 24, § 3900\(10.7\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“Prior to delivering services by telehealth, the licensee shall conduct a risk-benefit analysis and document that:

- The client’s presenting problems and apparent condition are consistent with the use of telehealth to the client’s benefit; and
- The client 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.”

[DEL. CODE ANN. tit. 24, § 3900\(10.7\).](#)

DELAWARE



“Prior to delivery of services by telehealth, the licensee shall obtain written, informed consent from the client, or other appropriate person with authority to make health care decisions for the client, in language that is likely to be understood and is consistent with accepted professional and legal requirements. Where the licensee cannot obtain written informed consent at the outset of care due to emergency circumstances, the licensee shall obtain verbal informed consent to be followed by written informed consent as soon as reasonably possible. At minimum, the informed consent shall inform the client of:

- The limitations and innovative nature of using telehealth in the provision of social work services;
- Potential risks to confidentiality of information due to the use of telehealth;
- Potential risks of sudden and unpredictable disruption of telehealth services and how an alternative means of re-establishing electronic or other connection will be used under such circumstances;
- When and how the licensee will respond to routine electronic messages;
- Under what circumstances the licensee and client will use alternative means of communications;
- Who else may have access to communications between the client and the licensee;
- Specific methods for ensuring that a client's electronic communications are directed only to the licensee; and
- How the licensee stores electronic communications exchanged with the client.”

[DEL. CODE ANN. tit. 24, § 3900\(10.8\).](#)

“Upon initial and subsequent contacts with the client by telehealth, the licensee shall make reasonable efforts to verify the identity of the client.”

[DEL. CODE ANN. tit. 24, § 3900\(10.9\).](#)

“Upon initial contact, the licensee shall: obtain alternative means of contacting the client; provide to the client alternative means of contacting the licensee; and establish a written agreement relative to the client’s access to face-to-face emergency services in the client’s geographical area, in instances such as, but not necessarily limited to, the client experiencing a suicidal or homicidal crisis.”

[DEL. CODE ANN. tit. 24, § 3900\(10.10\).](#)



DELAWARE

“The licensee shall document in the file or record which services were provided by telehealth.”

[DEL. CODE ANN. tit. 24, § 3900\(10.11\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

The Delaware Board of Clinical Social Work Examiners defines “telehealth” as “the practice of social work by distance communication technology, such as, but not necessarily limited to, telephone, email, Internet-based communications, and videoconferencing.”

[DEL. CODE ANN. tit. 24, § 3900\(10.1\).](#)

COUNSELORS

What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

The Delaware Board of Professional Counselors of Mental Health and Chemical Dependency Professionals defines “telehealth services” as “the practice of Mental Health Counseling, Chemical Dependency Counseling, or Marriage and Family Therapy by distance communication technology such as but not necessarily limited to telephone, email, Internet-based communications, and videoconferencing.”

[DEL. CODE ANN. tit. 24, § 3000\(11.1\).](#)

“Licensees must recognize that Telehealth Services are not appropriate for all Behavioral Health Practice and clients, and decisions regarding the appropriate use of Telehealth Services are made on a case-by-case basis. . . . Licensees delivering Telehealth Services shall:

- Conduct a risk-benefit analysis and document findings specific to:
 - Whether the client's presenting problems and apparent condition are consistent with the use of Telehealth Services to the client's benefit; and
 - Whether the client 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.

DELAWARE

- Not provide Telehealth Services to any person or persons when the outcome of the analysis required [above] is inconsistent with the delivery of Telehealth Services, whether related to clinical or technological issues.”

[DEL. CODE ANN. tit. 24, § 3000\(11.6\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“In order to deliver Telehealth Services one must hold a current, valid license issued by the [Delaware Board of Professional Counselors of Mental Health and Chemical Dependency Professionals].”

[DEL. CODE ANN. tit. 24, § 3000\(11.2\).](#)

“Licensees understand that this rule does not provide licensees with authority to deliver Telehealth Services to clients domiciled in any jurisdiction other than Delaware, and licensees bear responsibility for complying with laws, rules, and/or policies for the delivery of Telehealth Services set forth by other jurisdictional regulatory boards.”

[DEL. CODE ANN. tit. 24, § 3000\(11.3\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“Licensees delivering Telehealth Services shall:

- Conduct a risk-benefit analysis and document findings specific to:
 - Whether the client’s presenting problems and apparent condition are consistent with the use of Telehealth Services to the client’s benefit; and
 - Whether the client 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.
- Not provide Telehealth Services to any person or persons when the outcome of the analysis required [above] is inconsistent with the delivery of Telehealth Services, whether related to clinical or technological issues.

DELAWARE



- Upon initial and subsequent contacts with the client, make reasonable efforts to verify the identity of the client;
- Obtain alternative means of contacting the client;
- Provide to the client alternative means of contacting the licensee;
- Establish a written agreement relative to the client's access to face-to-face emergency services in the client's geographical area, in instances such as, but not necessarily limited to, the client experiencing a suicidal or homicidal crisis;
- Whenever feasible, use secure communications with clients, such as encrypted text messages via email or secure websites and obtain and document consent for the use of non-secure communications;
- Prior to providing Telehealth Services, obtain the written informed consent of the client, in language that is likely to be understood and consistent with accepted professional and legal requirements, relative to:
 - The limitations and innovative nature of using distance technology in the provision of Behavioral Health Services;
 - Potential risks to confidentiality of information due to the use of distance technology;
 - Potential risks of sudden and unpredictable disruption of Telehealth Services and how an alternative means of re-establishing electronic or other connection will be used under such circumstances;
 - When and how the licensee will respond to routine electronic messages;
 - Under what circumstances the licensee and service recipient will use alternative means of communications under emergency circumstances;
 - Who else may have access to communications between the client and the licensee;
 - Specific methods for ensuring that a client's electronic communications are directed only to the licensee or supervisee;
 - How the licensee stores electronic communications exchanged with the client. . . ."

[DEL. CODE ANN. tit. 24, § 3000\(11.6\).](#)



DELAWARE

What are the acceptable modalities (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

The Delaware Board of Professional Counselors of Mental Health and Chemical Dependency Professionals defines “telehealth services” as “the practice of Mental Health Counseling, Chemical Dependency Counseling, or Marriage and Family Therapy by distance communication technology such as but not necessarily limited to telephone, email, Internet-based communications, and videoconferencing.”

[DEL. CODE ANN. tit. 24, § 3000\(11.1\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

“Telemedicine shall not be utilized by an advanced practice registered nurse (APRN) with respect to any patient in the absence of an APRN-patient relationship.”

[DEL. CODE ANN. tit. 24, § 1933\(a\).](#)

COVERAGE & REIMBURSEMENT

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

Delaware requires “[a]n insurer, health service corporation, or health maintenance organization [to] reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer, health service corporation, or health maintenance organization is responsible for coverage for the provision of the same service through in-person consultation or contact. . . .”

[DEL. CODE ANN. tit. 18, § 3370\(e\).](#)



DISTRICT OF COLUMBIA

What is the definition of “telemedicine” or “telehealth”?

Updated first link and citation: District of Columbia Department of Health, Notice of Proposed Rulemaking, [Establishing Rules on Telemedicine](#) (Feb. 2016).

The Telehealth Reimbursement Act of 2013 defines “telehealth” as “the delivery of healthcare services through the use of interactive audio, video, or other electronic media used for purposes of diagnosis, consultation, or treatment; provided, that services delivered through audio-only telephones, electronic mail messages, or facsimile transmissions are not included.”

[D.C. CODE § 31-3861\(4\)](#).

PSYCHIATRISTS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

A “physician-patient relationship” is defined as “[a] relationship between a physician and a patient in which there is an exchange of an individual’s protected health information for the purpose of providing patient care treatment or services.”

“A physician shall perform a patient evaluation to establish diagnoses and identify underlying conditions or contraindications to recommended treatment options before providing treatment or prescribing medication.”

“If a physician-patient relationship does not include a prior in-person, face-to-face interaction with a patient, the physician shall use real-time auditory communications or real-time visual and auditory communications to allow a free exchange of protected health information between the patient and the physician performing the patient evaluation.”

District of Columbia Department of Health, Notice of Proposed Rulemaking, [Establishing Rules on Telemedicine](#) (Feb. 2016).

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Updated link and citation: District of Columbia Department of Health, Notice of Proposed Rulemaking, [Establishing Rules on Telemedicine](#) (Feb. 2016).



DISTRICT OF COLUMBIA

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

Updated link and citation: District of Columbia Department of Health, Notice of Proposed Rulemaking, [Establishing Rules on Telemedicine](#) (Feb. 2016).

MARRIAGE/FAMILY THERAPISTS

What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

None identified.

However, in July 2013, the District of Columbia Board of Marriage and Family Therapy issued general guidance regarding the provision of teletherapy services:

- “A licensee providing or intending to provide teletherapy to a resident of another jurisdiction where the licensee is not licensed should contact the regulator(s) in that jurisdiction to ascertain and comply with the legal requirements of the jurisdiction.
- A marriage and family therapist providing or intending to provide teletherapy to a District resident should ensure that he or she complies with applicable federal and state laws governing confidentiality and privacy, such as the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy and security rules. Accordingly, the therapist should use only a telecommunication system, program, or means that is known to be sufficiently secure to protect the client’s privacy and confidentiality. Based on current information, Skype is not a secure means of telecommunication.
- A marriage and family therapist providing or intending to provide teletherapy to or involving a minor should observe all applicable ethical rules and safeguards to protect the minor’s rights, welfare, safety, and privacy.”

District of Columbia Board of Marriage and Family Therapy, [Policy Statement: Guidance on Teletherapy](#) (July 2013).

**DISTRICT OF COLUMBIA****MINORS**

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

However, a July 2013 policy statement from the District of Columbia Board of Marriage and Family Therapy states that “[a] marriage and family therapist providing or intending to provide teletherapy to or involving a minor should observe all applicable ethical rules and safeguards to protect the minor’s rights, welfare, safety, and privacy.”

District of Columbia Board of Marriage and Family Therapy, [Policy Statement: Guidance on Teletherapy](#) (July 2013).



FLORIDA

What is the definition of “telemedicine” or “telehealth”?

Florida Medicaid program regulations define “telemedicine” as the “practice of health care delivery by a practitioner who is located at a site other than the site where a recipient is located for the purposes of evaluation, diagnosis, or treatment.”

[FLA. ADMIN. CODE r. 56G-1.057\(2\).](#)

PSYCHIATRISTS

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes. However, Florida telemedicine regulations do not allow controlled substances to be prescribed via telemedicine: “Controlled substances shall not be prescribed through the use of telemedicine. This provision does not preclude physicians from ordering controlled substances through the use of telemedicine for patients hospitalized in a facility licensed pursuant to Chapter 395, F.S.”

[FLA. ADMIN. CODE r. 64B8-9.0141\(4\).](#)

“Prescribing medications based solely on an electronic medical questionnaire constitutes the failure to practice medicine with that level of care, skill, and treatment which is recognized by reasonably prudent physicians as being acceptable under similar conditions and circumstances, as well as prescribing legend drugs other than in the course of a physician’s professional practice.”

[FLA. ADMIN. CODE r. 64B8-9.0141\(5\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes, Advanced Registered Nurse Practitioners (ARNPs, Florida’s equivalent of APRNs) have prescribing authority.

“A prescription for a drug that is not listed as a controlled substance in chapter 893 which is written by an advanced registered nurse practitioner certified under s. 464.012 is presumed, subject to rebuttal, to be valid. . . .”



FLORIDA

[FLA. STAT. § 456.0392\(2\)](#).

Legislation passed in 2016 has enabled ARNPs to prescribe controlled substances.

[FLA. STAT. § 456.44\(1\)\(g\)](#).

However, “only a physician . . . may dispense medication or prescribe a controlled substance . . . on the premises of a registered pain management clinic.”

[FLA. STAT. § 458.3265\(2\)\(b\)](#).

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

“Florida Medicaid reimburses for telemedicine services using interactive telecommunications equipment that includes, at a minimum audio and video equipment permitting two-way, real time, interactive communication between a recipient and a practitioner.”

[FLA. ADMIN. CODE r. 56G-1.057\(4\)](#).

“Florida Medicaid does not reimburse for:

- (a) Telephone conversations, chart review(s), electronic mail messages, or facsimile transmissions.
- (b) Equipment required to provide telemedicine services.”

[FLA. ADMIN. CODE r. 56G-1.057\(5\)](#).

“The following applies to practitioners rendering services in the fee-for-service delivery system:

- (a) Florida Medicaid reimburses the practitioner who is providing the evaluation, diagnosis, or treatment recommendation located at a site other than where the recipient is located.
- (b) Providers must include modifier GT on the CMS-1500 claim form, incorporated by reference in Rule 59G-4.001, F.A.C.”

[FLA. ADMIN. CODE r. 56G-1.057\(6\)](#).



FLORIDA

The *Florida Medicaid Community Behavioral Health Services Coverage and Limitations Handbook* states:

“Providers utilizing telemedicine must implement technical written policies and procedures for telemedicine systems that comply with the Health Insurance Portability and Accountability Act privacy regulations as well as applicable state and federal laws that pertain to patient privacy. Policies and procedures must also address the technical safeguards required by Title 45, Code of Federal Regulations, section 164.312, where applicable.”

The handbook also provides that “[s]ervices must be delivered from a facility that is enrolled in Medicaid as a community behavioral health services provider for Medicaid to reimburse for services delivered through telemedicine.”

[FLA. ADMIN. CODE r. 59G-4.050](#) (incorporating [Florida Agency for Health Care Administration, Community Behavioral Health Services, Coverage and Limitations Handbook](#) (rev. Mar. 2014)).



GEORGIA

What is the definition of “telemedicine” or “telehealth”?

Georgia’s Telemedicine Act (which relates to insurance coverage of telemedicine) provides the following definition:

“Telemedicine” means the practice, by a duly licensed physician or other health care provider acting within the scope of such provider’s practice, of health care delivery, diagnosis, consultation, treatment, or transfer of medical data by means of audio, video, or data communications which are used during a medical visit with a patient or which are used to transfer medical data obtained during a medical visit with a patient. Standard telephone, facsimile transmissions, unsecured e-mail, or a combination thereof do not constitute telemedicine services.

[GA. CODE ANN. § 33-24-56.4.](#)

The *Georgia Medicaid Handbook* provides the following definition:

Telemedicine is the exchange of medical information for clinical care from one site to another via electronic communications to improve patient’s health status. It is the use of two-way, real time interactive communication equipment to exchange the patient information from one site to another via an electronic communication system. This includes audio and video communications equipment. Closely associated with telemedicine is the term “telehealth,” which is often used to encompass a broader definition of remote healthcare that may, but does not always, involve clinical services. Telehealth is the use of telecommunications technologies for clinical care (telemedicine), patient teachings and home health, health professional education (distance learning), administrative and program planning, and other diverse aspects of a health care delivery system.

Georgia Department of Community Health, [Telemedicine Guidance](#) (released Apr. 2017).

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

Before rendering services through electronic or other such means, the Georgia licensed physician either:



GEORGIA

- “[h]as personally seen and examined the patient and provides ongoing or intermittent care by electronic or other such means; or
- [i]s providing medical care by electronic or other such means at the request of a physician, physician assistant or advanced practice registered nurse licensed in Georgia who has personally seen and examined the patient; or
- [i]s providing medical care by electronic or other such means at the request of a Public Health Nurse, a Public School Nurse, the Department of Family and Children’s Services, law enforcement, community mental health center or through an established child advocacy for the protection [of] a minor, and the physician, physician assistant or advanced practice registered nurse is able to examine the patient using technology and peripherals that are equal or superior to an examination done personally by a provider within that provider’s standard of care; or
- [i]s able to examine the patient using technology and peripherals that are equal or superior to an examination done personally by a provider within that provider’s standard of care.”

[GA. COMP. R. & REGS. § 360-3-.07\(a\).](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

According to the *Georgia Medicaid Handbook*, “[w]hen a provider, licensed in the state of Georgia, determines that medical care can be provided via electronic communication with no loss in the quality or efficacy of the member’s care, telemedicine services can be performed. The use of a telecommunications system may substitute for an in-person encounter for professional office visits, pharmacologic management, limited office psychiatric services, limited radiological services and a limited number of other physician fee schedule services.”

The *Georgia Medicaid Handbook* lays out specific requirements in various categories, as follows (see full text of *Georgia Medicaid Handbook* for further detail and the full scope of coverage criteria):

Providers:

“Practitioners at the distant site who **may** furnish and receive payment for covered telemedicine services (subject to program-specific policy and State law) are:



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- Physicians;
- Nurse practitioners (NPs);
- Physician assistants (PAs);
- Nurse-midwives;
- Clinical nurse specialists (CNSs);
- Certified registered nurse anesthetists;
- Dentists and dental hygienists;
- Community mental health centers; community behavioral health providers
- Clinical psychologists (CPs) and clinical social workers (CSWs);
- Speech language pathologists;
- Registered dietitians or nutrition professionals.”

Georgia Department of Community Health, [Telemedicine Guidance](#), at 4 (released Apr. 2017).

Coverage:

“To provide coverage of medically necessary services provided using telecommunication systems the following requirements must be met:

1. The referring provider must be licensed and practicing within the state of Georgia.
2. The member must be present and participating in the visit.
3. The referring health care practitioner must obtain written consent from the eligible Georgia Medicaid member prior to rendering service. The consent must state that the member agrees to participate in the telemedicine based service. Copies of this form should be in the medical record of both the originating and distant site providers. The consent form must include a description of the risks, benefits and consequences of telemedicine and be included in the member’s medical record. . . .
4. The referring provider must be the members attending physician, practitioner or provider in charge of their care. The request must be documented in the member’s record. The physician or practitioner providing the referral must provide pertinent medical information and/or records to the distant site provider via a secure transmission. Notwithstanding the foregoing, referrals for evaluation of physical, mental, or sexual abuse may be made by an appropriate agency or group, including but not limited to, law enforcement or social services agencies.



GEORGIA

5. The referring provider must be requesting the opinion, advice or service of another provider for a specific medical problem, illness or injury.
6. The consulting provider [must] be licensed in the state of Georgia and must document all findings and recommendations in writing, in the format normally used for recording services in the patients' medical records. Both the originating site and distant site must document and maintain the patient's medical records. The report from the distant site provider may be faxed to the originating provider. Additionally, all electronic documentation must be available for review by the Georgia Department of Community Health, Medicaid Division, Division of Program Integrity and all other applicable divisions of the department.
7. All telemedicine activities must comply with the requirements of the Health Insurance Portability and Accountability Act of 1996: Standards for Privacy of individual identifiable health information and all other applicable state and federal laws and regulations.
8. All services that require prior approval must be prior approved. The provider at the distant site must obtain prior approval when services require prior approval.
9. If the member is a minor child, a parent/guardian must present the child for telemedicine services and sign the consent form unless otherwise exempted by State or Federal law. The parent/guardian need not attend the telemedicine session unless attendance is therapeutically appropriate.
10. The member retains the right to withdraw at any time.
11. All existing confidentiality protections and HIPAA guidelines apply.
12. The member has access to all transmitted medical information, with the exception of live interactive video (if there is no stored data of the encounter).
13. There will be no dissemination of any member images or information to other entities without written consent from the member."

Georgia Department of Community Health, [Telemedicine Guidance](#), at 5-6 (released Apr. 2017).

Reimbursement:

"Medicaid covers services provided via telemedicine for eligible members when the service is medically necessary, the procedure is individualized, specific, and consistent



GEORGIA

with symptoms or confirmed diagnosis of an illness or injury under treatment, and not in excess of the member's needs. Medicaid will reimburse a fee to certain providers for serving as the Originating Site and to other providers in the Distant Site for certain services rendered remotely to the member in the originating site."

"The Georgia Medicaid program will not reimburse for store and forward because these services do not include direct, in-person member contact."

Georgia Department of Community Health, [Telemedicine Guidance](#), at 3, 7 (released Apr. 2017).

Non-Covered Services

1. "Telephone conversations.
2. Electronic mail messages.
3. Facsimile.
4. Services rendered via a web cam or Internet-based technologies (i.e., Skype, Tango, etc.) that are not part of a secured network and do not meet HIPAA encryption compliance.
5. Video cell phone interactions.
6. The cost of telemedicine equipment and transmission.
7. Store and forward transactions.
8. Failed or unsuccessful transmissions."

Georgia Department of Community Health, [Telemedicine Guidance](#), at 6 (released Apr. 2017).

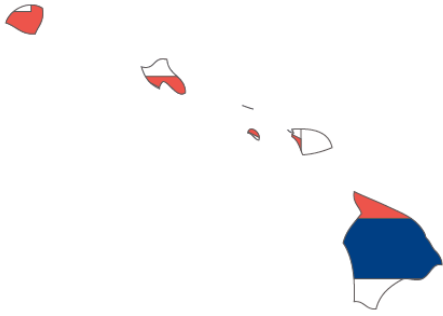
Technology

"Interactive audio and video telecommunications must be used, permitting real time communications between the distant site provider or practitioner and the member. All transactions must utilize an acceptable method of encryption adequate to protect the confidentiality and integrity of the transmission information. Transmissions must employ acceptable authentication and identification procedures by both the sender and the receiver. All interactive video telecommunications must comply with HIPAA patient privacy regulations at the site where the member is located, the site where the consulting provider is located and in the transmission process. All communications must be on a secure network in compliance with HIPAA Encryption and Redundancy requirements. Encryption is the conversion of plaintext into cipher text using a key to make the conversion."



GEORGIA

Georgia Department of Community Health, [Telemedicine Guidance](#), at 7 (released Apr. 2017).



HAWAII

What is the definition of “telemedicine” or “telehealth”?

Hawaii’s Medical Practice Act defines “telehealth” as follows:

[T]he use of telecommunications as that term is defined in section 269-1 [(see below)], to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purposes of: delivering enhanced healthcare services and information while a patient is at an originating site and the physician is at a distant site; establishing a physician-patient relationship; evaluating a patient; or treating a patient.

[HAW. REV. STAT. § 453-1.3\(i\).](#)

“Telecommunications” means the following:

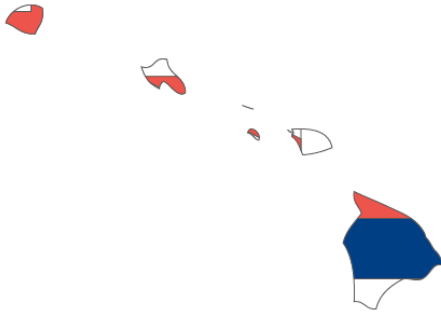
[T]he offering of transmission between or among points specified by a user, of information of the user’s choosing, including voice, data, image, graphics, and video without change in the form or content of the information, as sent and received, by means of electromagnetic transmission, or other similarly capable means of transmission, with or without benefit of any closed transmission medium, and does not include cable service as defined in section 440G-3.

[HAW. REV. STAT. § 269-1.](#)

Another section of Hawaii’s Medical Practice Act related to licensure requirements defines “telehealth” in this way:

[T]he use of telecommunications, as that term is defined in section 269-1, including but not limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information to parties separated by distance. Standard telephone contacts, facsimile transmissions, or e-mail texts, in combination or by themselves, do not constitute a telehealth service for the purposes of this paragraph.

[HAW. REV. STAT. § 453-2\(b\)\(7\).](#)



HAWAII

The Hawaii Board of Nursing defines “telehealth” as follows:

[T]he use of telecommunications as that term is defined in section 269-1 [(see above)], to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, to support long-distance clinical health care while a patient is at an originating site and the nurse is at a distant site, patient and professional health-related education, public health and health administration, to the extent that it relates to nursing.

[HAW. REV. STAT. § 457-2\(a\).](#)

Hawaii’s insurance parity provisions define “telehealth” as follows:

[T]he use of telecommunications services, as defined in section 269-1 [(see above)], including but not limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information to parties separated by distance. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.

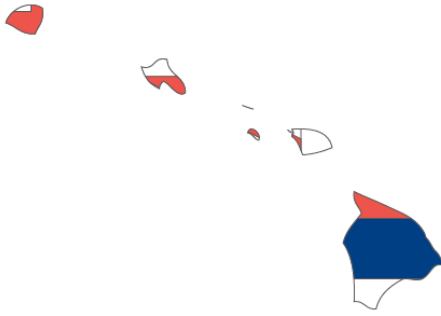
[HAW. REV. STAT. § 431:10A-116.3.](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Hawaii’s Medical Practice Act states the following:

A physician shall not use telehealth to establish a physician-patient relationship with a patient in this State without a license to practice medicine in Hawaii. . . . A physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient



HAWAII

information to the telehealth provider. Once a provider-patient relationship is established, a patient or physician licensed in this State may use telehealth for any purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law.

[HAW. REV. STAT. § 453-1.3\(e\)-\(f\).](#)

However, the licensing provisions within Hawaii's Medical Practice Act do not apply to the following:

[A]ny practitioner of medicine and surgery from another state when in actual consultation, including in-person, mail, electronic, telephonic, fiber-optic, or other telehealth consultation with a licensed physician or osteopathic physician of this State, if the physician or osteopathic physician from another state at the time of consultation is licensed to practice in the state in which the physician or osteopathic physician resides; provided that:

(A) The physician or osteopathic physician from another state shall not open an office, or appoint a place to meet patients in this State, or receive calls within the limits of the State for the provision of care for a patient who is located in this State;

(B) The licensed physician or osteopathic physician of this State retains control and remains responsible for the provision of care for the patient who is located in this State; and

(C) The laws and rules relating to contagious diseases are not violated.

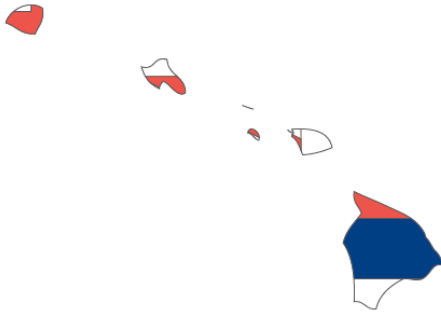
[HAW. REV. STAT. § 453-2\(b\)\(4\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“Telehealth services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and to identify underlying conditions or contraindications to the treatment recommended or provided.”

[HAW. REV. STAT. § 453-1.3\(b\).](#)

“A physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient information to the telehealth provider. Once a provider-patient relationship is established, a patient or physician



HAWAII

licensed in this State may use telehealth for any purpose, including consultation with a medical provider licensed in another state, authorized by this section or as otherwise provided by law. . . . The physician-patient relationship pre-requisite under this section shall not apply to telehealth consultations for emergency department services.”

[HAW. REV. STAT. § 453-1.3\(f\)-\(g\).](#)

Hawaii’s insurance parity provisions provide the following:

- “There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction.”
- “[I]n the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.”

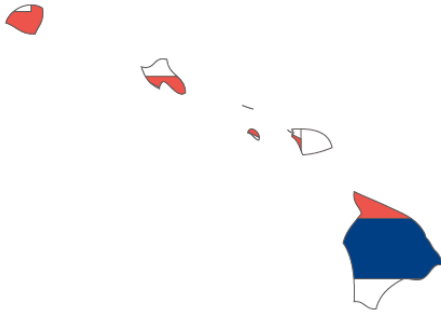
[HAW. REV. STAT. § 431:10A-116.3.](#)

Hawaii’s Controlled Substances Act defines the “physician-patient relationship” as follows:

[T]he collaborative relationship between physicians and their patients. To establish this relationship, the treating physician or the physician’s designated member of the health care team, at a minimum shall:

- (1) Personally perform face-to-face history and physical examination of the patient that is appropriate to the specialty training and experience of the physician or the designated member of the physician’s health care team, make a diagnosis and formulate a therapeutic plan, or personally treat a specific injury or condition;
- (2) Discuss with the patient the diagnosis or treatment, including the benefits of other treatment options; and
- (3) Ensure the availability of appropriate follow-up care.

[HAW. REV. STAT. § 329-1.](#)



HAWAII

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Hawaii's Medical Practice Act states the following:

Treatment recommendations made via telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a face-to-face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing opiates or medical marijuana, a physician-patient relationship shall only be established after an in-person consultation between the prescribing physician and the patient.

[HAW. REV. STAT. § 453-1.3\(c\).](#)

PSYCHOLOGISTS

What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

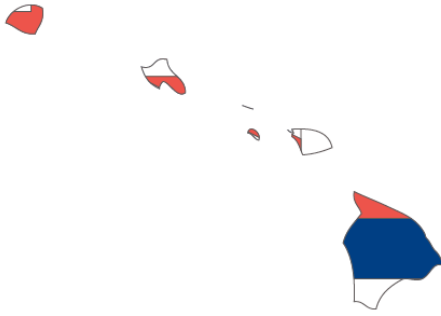
None identified.

However, Hawaii's Psychology Practice Act notes that "[e]xcept as otherwise provided in this chapter, it shall be unlawful to represent one's self as a psychologist or engage in the practice of psychology without having first obtained a license as provided in this chapter."

[HAW. REV. STAT. § 465-2.](#)

An exception to this rule applies to "[a]ny psychologist employed in the United States Department of Defense, while engaged in the discharge of the psychologist's official duty and providing direct telehealth support or services, as defined in section 431:10A-116.3, to neighbor island beneficiaries within a Hawaii national guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the psychologist employed by the United States Department of Defense is credentialed by Tripler Army Medical Center."

[HAW. REV. STAT. § 465-3.](#)



HAWAII

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, Hawaii's Psychology Practice Act notes that "[e]xcept as otherwise provided in this chapter, it shall be unlawful to represent one's self as a psychologist or engage in the practice of psychology without having first obtained a license as provided in this chapter."

[HAW. REV. STAT. § 465-2.](#)

An exception to this rule applies to "[a]ny psychologist employed in the United States Department of Defense, while engaged in the discharge of the psychologist's official duty and providing direct telehealth support or services, as defined in section 431:10A-116.3, to neighbor island beneficiaries within a Hawaii national guard armory on the island of Kauai, Hawaii, Molokai, or Maui; provided that the psychologist employed by the United States Department of Defense is credentialed by Tripler Army Medical Center."

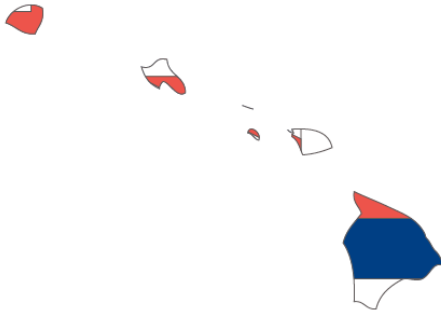
[HAW. REV. STAT. § 465-3.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Hawaii's insurance parity provisions (which expressly apply to psychologists) provide the following:

- "There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction."
- "[I]n the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship."

[HAW. REV. STAT. § 431:10A-116.3.](#)



HAWAII

Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

No. However, proposed legislation has been introduced that, if passed, would allow psychologists to obtain prescriptive authority (provided they meet certain education, training, and registration requirements). See [SB384](#).

SOCIAL WORKERS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Hawaii's insurance parity provisions (which expressly apply to mental health providers) provide the following:

- “There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction.”
- “[I]n the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.”

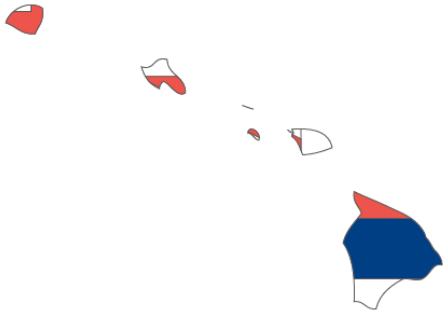
[HAW. REV. STAT. § 431:10A-116.3](#).

COUNSELORS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Hawaii's insurance parity provisions (which expressly apply to mental health providers) provide the following:

- “There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction.”



HAWAII

- “[I]n the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.”

[HAW. REV. STAT. § 431:10A-116.3.](#)

MARRIAGE/FAMILY THERAPISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, under the Hawaii Marriage and Family Therapist Act, “no person shall use the title marriage and family therapist or licensed marriage and family therapist without first having secured a license under this chapter.”

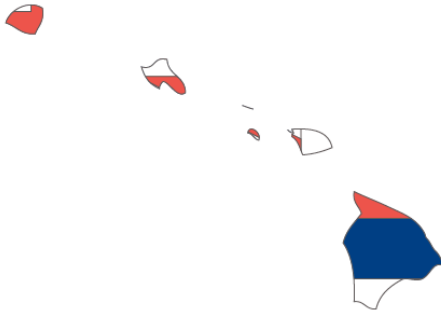
[HAW. REV. STAT. § 451J-5.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Hawaii’s insurance parity provisions (which expressly apply to mental health providers) provide the following:

- “There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction.”
- “[I]n the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.”

[HAW. REV. STAT. § 431:10A-116.3.](#)



HAWAII

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Hawaii's insurance parity provisions (which expressly apply to APRNs) provide the following:

- “There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction.”
- “[I]n the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.”

[HAW. REV. STAT. § 431:10A-116.3.](#)

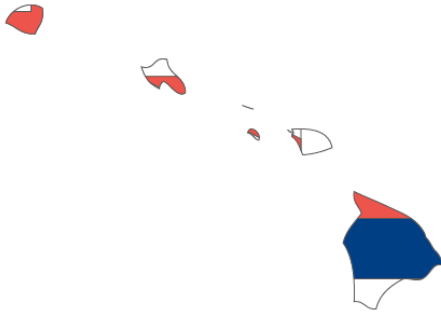
Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Hawaii's Medical Practice Act states the following:

Treatment recommendations made via telehealth, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a face-to-face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing opiates or medical marijuana, a physician-patient relationship shall only be established after an in-person consultation between the prescribing physician and the patient.

[HAW. REV. STAT. § 453-1.3\(c\).](#)

Further, in Hawaii's Administrative Rules pertaining to nurses, it is stated that “APRNs who are granted prescriptive authority shall only prescribe drugs appropriate to their



HAWAII

practice specialties as recognized by the board and in accordance with the exclusionary formulary.”

[HAW. CODE R. § 16-89-116.](#)

Under Hawaii’s Controlled Substances Act, “[i]t shall be unlawful for any person subject to part III of this chapter [(includes prescribing APRNs)] except a pharmacist, to administer, prescribe, or dispense any controlled substance without a bona fide physician-patient relationship.”

[HAW. REV. STAT. § 329-41.](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

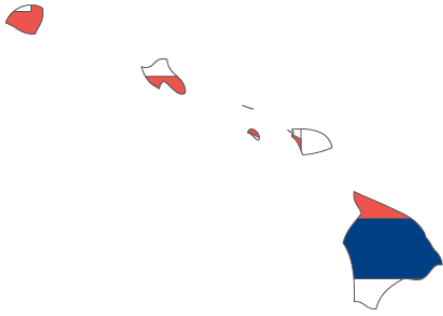
Updated link: [HAW. REV. STAT. § 453-1.3\(d\).](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

Hawaii’s insurance parity provisions provide the following:

- “No accident and health or sickness insurance plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the provider.”
- “There shall be no reimbursement for a telehealth consultation between health care providers unless a health care provider-patient relationship exists between the patient and one of the health care providers involved in the telehealth interaction.”



HAWAII

- “For the purposes of this section, ‘health care provider’ means a provider of services, as defined in 42 U.S.C. 1395x(u), a provider of medical and other health services, as defined in 42 U.S.C. 1395x(s), and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business.”

[HAW. REV. STAT. § 431:10A-116.3.](#)

Also, Hawaii’s Medical Practice Act specifically provides that “[r]eimbursement for behavioral health services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient.”

[HAW. REV. STAT. § 453-1.3\(h\).](#)

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

Hawaii’s Medical Practice Act specifically provides that “[r]eimbursement for behavioral health services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient.”

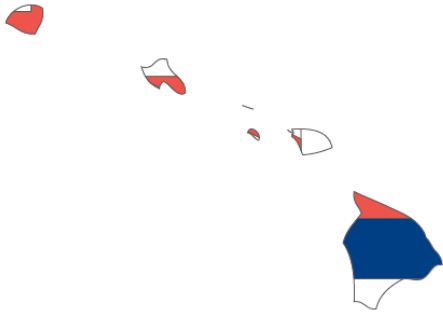
[HAW. REV. STAT. § 453-1.3\(h\).](#)

CONTROLLED SUBSTANCES

What are the requirements/laws governing the prescribing of “controlled” substances”?

Under Hawaii’s Controlled Substances Act, “[e]very person who:

- (1) Manufactures, distributes, prescribes, or dispenses any controlled substance within this State;
- (2) Proposes to engage in the manufacture, distribution, prescription, or dispensing of any controlled substance within this State; or



HAWAII

(3) Dispenses or proposes to dispense any controlled substance for use in this State by shipping, mailing, or otherwise delivering the controlled substance from a location outside this State;

shall obtain a registration issued by the department of public safety in accordance with the department's rules."

[HAW. REV. STAT. § 329-32.](#)

"For the purposes of prescribing opiates or medical marijuana, a physician-patient relationship shall only be established after an in-person consultation between the prescribing physician and the patient."

[HAW. REV. STAT. § 453-1.3\(c\).](#)

"A scheduled II controlled substance prescription shall:

- Be filled within seven days following the date the prescription was issued to the patient; and
- Be supplied to a patient only if the prescription has been filled and held by the pharmacy for not more than seven days."

[HAW. REV. STAT. § 329-38.](#) **See full text of statute for additional requirements.**



IDAHO

What is the definition of “telemedicine” or “telehealth”?

There are no substantive changes; however, the second link is outdated. The corrected link is as follows: Idaho Department of Health and Welfare, [Idaho Medicaid Policy: Telehealth Services](#) (effective 1/1/2017).

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

“A provider offering telehealth services must at all times act within the scope of the provider’s license and according to all applicable laws and rules, including, but not limited to, this [rule] and the community standard of care.”

[IDAHO CODE ANN. § 54-5704.](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“Performing providers at the distant site, who regularly provide telehealth services to Idaho Medicaid participants are required to maintain current Idaho licensure. . . .”

Idaho Department of Health and Welfare, [Idaho Medicaid Policy: Telehealth Services](#) (effective 1/1/2017).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“If a provider offering telehealth services in his or her practice does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio and visual interaction; provided however, that the applicable Idaho community standard of care must be satisfied.”

[IDAHO CODE ANN. § 54-5705.](#)

Regarding telehealth services provided to Idaho Medicaid recipients, “before an initial visit using telehealth, the practitioner who delivers the service to a participant shall ensure that any written information is provided to the participant in a form and manner



IDAHO

which the participant can understand using reasonable accommodations when necessary. . . .”

Idaho Department of Health and Welfare, [Idaho Medicaid Policy: Telehealth Services](#) (effective 1/1/2017).

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

Idaho statutes define “telehealth services” as “health care services provided by a provider to a person through the use of electronic communications, information technology, asynchronous store and forward transfer, or synchronous interaction between a provider at a distant site and a patient at an originating site.”

[IDAHO CODE ANN. § 54-5703\(6\)](#).

Regarding telehealth services provided to Idaho Medicaid recipients, “[r]eimbursement is not available for a telephone conversation, electronic mail message (e-mail), or facsimile transmission (fax) between a physician and a participant.”

Idaho Department of Health and Welfare, [Idaho Medicaid Policy: Telehealth Services](#) (effective 1/1/2017).

PSYCHOLOGISTS

What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

According to guidelines published by the Idaho Board of Psychologist Examiners Task Force and the Idaho Psychological Association, psychologists licensed in Idaho who are providing telepsychology services to patients in the state of Idaho should recognize that “telepsychology is not appropriate in all situations. . . . In each situation where telepsychology services are contemplated, the psychologist must balance potential benefits with the potential risks to the individual, individuals, or group receiving telepsychology services.”

Joint Idaho Psychological Association-Idaho Board of Psychologist Examiners Task Force, [Guidelines for Electronic Transmission and Telepsychology in the State of Idaho](#) (approved 7/12/12).



IDAHO

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“If a provider offering telehealth services in his or her practice does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio and visual interaction; provided however, that the applicable Idaho community standard of care must be satisfied.”

[IDAHO CODE ANN. § 54-5705.](#)

Additionally, the guidelines state the following:

Psychologists using telepsychology provide oral, but preferably written or published, information regarding the use of electronic technology and obtain the affirmative informed consent from the patient. Informed consent should be in language that is likely to be understood and consistent with accepted professional and legal requirements. In the event that a psychologist is providing services to someone who is unable to provide consent (including minors), additional measures are taken to ensure that appropriate consent (or assent, where applicable) are obtained. The psychologist’s level of competence, experience and training in the practice of telepsychology should be disclosed to the patient. The patient should be given the opportunity to ask questions regarding the use of telepsychology.

As a part of an informed consent process, the patient is provided sufficient information about the limitations of using electronic technology, including potential risks to confidentiality of information, as well as any legally-required reporting, such as reporting a patient who may be suicidal, homicidal, or otherwise display a violence risk toward others. This disclosure includes information that identifies telepsychology as innovative treatment (2002 APA Ethical Principles 10.01b). The patient is expected to provide written acknowledgement of their awareness of these limitations.

Psychologists verify the identity of the telepsychology patient, and assure that the patient is capable of providing informed consent (supplements 2002 APA Ethics Code Sec. 3.10). When providing clinical services, psychologists make reasonable attempts to obtain information about alternative means of contacting a patient and provide their patient with an



IDAHO

alternative means of contacting them in emergency situations, or when telepsychology services are not available.

Psychologists inform the patient about potential risks associated with technical disruptions in the availability of telepsychology services. Psychologists clearly state their policies as to when they will respond to routine electronic messages, and in what circumstances they will use alternative communications for emergency situations. Given the continuous availability of the electronic environment, as well as the inclination toward increased disclosure in this type of environment, a patient may be more likely to disclose suicidal intentions and may assume that the psychologist will respond quickly (supplements 2002 APA Ethics Code Sec. 4.05).

Joint Idaho Psychological Association-Idaho Board of Psychologist Examiners Task Force, [Guidelines for Electronic Transmission and Telepsychology in the State of Idaho](#) (approved 7/12/12).

What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

According to guidelines published by the Idaho Board of Psychologist Examiners Task Force and the Idaho Psychological Association, “telepsychology” includes “any written, video or audio transmission of patient information for clinical or supervisory purposes using any form or format of electronic technology. Such transmissions include but are not limited to:

- telephone answering machines;
- faxes;
- telephonic generated transmissions either via voice;
- smartphone applications;
- electronic images or text;
- [I]nternet generated transmissions via e-mail;
- electronic physiological, behavioral, emotional, or cognitive monitoring where the data is electronically sent to the psychologist;
- web based applications that are not educational in nature where the psychologist receives the content of the patient responses;
- professional web sites;
- video-conferencing; and,



IDAHO

- social networking web sites with blogs of other methods of electronic communications.”

Joint Idaho Psychological Association-Idaho Board of Psychologist Examiners Task Force, [Guidelines for Electronic Transmission and Telepsychology in the State of Idaho](#) (approved 7/12/12).

SOCIAL WORKERS

What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

Idaho is a member of the Association of Social Work Boards (ASWB). While the Idaho Board of Social Work Examiners considers promulgating rules related to the practice of electronic social work, the Model Regulatory Standards for Technology and Social Work Practice, published by the ASWB, serve as guidelines for licensed social workers in the state. The ASWB guidelines state, in part, “Social workers who choose to provide **electronic social work services** shall:

- Do so only after engaging in appropriate education, study, training, consultation, and supervision from people who are competent in the use of this technology to provide social work services. . . .
- Assess whether **clients’** needs can be met using **electronic social work services** and, when necessary, refer **clients** to another professional. . . .
- Comply with the regulations governing the use of this technology both in the **jurisdiction** in which they are **regulated** and in the **jurisdiction** in which the **client** is located. . . .”

Association of Social Work Boards, [Model Regulatory Standards for Technology and Social Work Practice](#) (Mar. 2015).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“If a provider offering telehealth services in his or her practice does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio and visual interaction; provided however, that the applicable Idaho community standard of care must be satisfied.”

[IDAHO CODE ANN. § 54-5705.](#)



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In, addition, Idaho is a member of the Association of Social Work Boards (ASWB). While the Idaho Board of Social Work Examiners considers promulgating rules related to the practice of electronic social work, the Model Regulatory Standards for Technology and Social Work Practice, published by the ASWB, serve as guidelines for licensed social workers in the state. The ASWB guidelines state, in part, “Social workers who choose to provide **electronic social work services** shall:

- Obtain the informed consent of the individuals using their services during the initial screening or interview and prior to initiating the services. Social workers shall assess **clients’** capacity to provide informed consent.
- Develop policies and inform **clients** about the nature of available services, potential benefits and risks, alternative ways of receiving assistance, fees, involvement of and sharing information with third parties, and limits of confidentiality. . . .
- Take reasonable steps to verify the identity and location of **clients**. . . . When verification of a **client’s** identity is not required or feasible . . . social workers shall inform **clients** of the limitations of the services that can be provided.
- Conduct an initial screening at the point of the **client’s** first contact and assess the **client’s** suitability and capacity for online and **remote** services. Social workers shall consider the **client’s** intellectual, emotional, and physical ability to use digital and other electronic technology to receive services and the **client’s** ability to understand the potential risks and limitations of such services.
- Use professional judgment to determine whether an initial **in-person**, videoconference, or telephone consultation is warranted before undertaking **electronic social work services**. . . .
- Inform **clients** about risks associated with disclosure of confidential information on the Internet, social media sites, text-messaging sites, and videoconferencing sites, and the potential consequences. . . .”

Association of Social Work Boards, [Model Regulatory Standards for Technology and Social Work Practice](#) (Mar. 2015).

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

The Idaho Telehealth Access Act defines “telehealth services” as “health care services provided by a provider to a person through the use of electronic communications, information technology, asynchronous store and forward transfer or synchronous interaction between a provider at a distant site and a patient at an originating site.”



IDAHO

[IDAHO CODE ANN. § 54-5703\(6\).](#)

Idaho is a member of the Association of Social Work Boards (ASWB). While the Idaho Board of Social Work Examiners considers promulgating rules related to the practice of electronic social work, the Model Regulatory Standards for Technology and Social Work Practice, published by the ASWB, serve as guidelines for licensed social workers in the state. The ASWB guidelines state, in part, “Electronic social work services mean the use of computers and other electronic means to: (a) provide information to the public, (b) deliver social work services to clients, (c) communicate with clients, (d) manage confidential information and case records, (e) store and access information about clients, and (f) arrange payment for professional services.”

Association of Social Work Boards, [Model Regulatory Standards for Technology and Social Work Practice](#) (Mar. 2015).

COUNSELORS

What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

“A provider offering telehealth services must at all times act within the scope of the provider’s license and according to all applicable laws and rules, including, but not limited to, this chapter and the community standard of care.”

[IDAHO CODE ANN. § 54-5704.](#)

The Idaho Telehealth Guidelines for Professional Counselors and Marriage and Family Therapists state the following:

- “Counselors and therapists provide telehealth services only after they take reasonable steps to ensure their competence with the issues pertaining to this method of service delivery.”
- “Counselors and therapists recognize that telehealth services are not appropriate for every client.”

Idaho Board of Professional Counselors and Marriage and Family Therapists, [Telehealth Guidelines for Professional Counselors and Marriage and Family Therapists](#) (approved 5/6/2016).



IDAHO

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“If a provider offering telehealth services in his or her practice does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio and visual interaction; provided however, that the applicable Idaho community standard of care must be satisfied.”

[IDAHO CODE ANN. § 54-5705.](#)

In addition, the Idaho Telehealth Guidelines for Professional Counselors and Marriage and Family Therapists state the following:

Prior to commencing telehealth treatment, counselors and therapists provide clients with a professional disclosure statement and obtain verbal and written informed consent from the individuals seeking their services. In addition to following informed consent laws and rules currently in place, telehealth providers inform clients of their level of competency, experience and training in telehealth, and the specific benefits and risks associated with technology-assisted services. . . . They verify the identity of the client/s and attempt to obtain information about alternative means to contact them in case of emergency situations. They clearly state their policies regarding response time to routine electronic messages and to emergencies.

Idaho Board of Professional Counselors and Marriage and Family Therapists, [Telehealth Guidelines for Professional Counselors and Marriage and Family Therapists](#) (approved 5/6/2016).

What are the acceptable modalities (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

The Idaho Telehealth Guidelines for Professional Counselors and Marriage and Family Therapists state the following: “Telehealth services include any written, video or audio transmission of client information for clinical or supervisory purposes using any form or format of electronic technology. These include, but are not limited to, telephones, smartphones and applications, telephone answering machines, faxes, email, social media and internet-based applications, and data storage devices or media.”



IDAHO

Idaho Board of Professional Counselors and Marriage and Family Therapists, [Telehealth Guidelines for Professional Counselors and Marriage and Family Therapists](#) (approved 5/6/2016).

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

“Any provider offering telehealth services as part of his or her practice shall generate and maintain medical records for each patient using such telehealth services in compliance with applicable state and federal laws, rules, and regulations, including the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act. Such records will be accessible to other providers and to the patient in accordance with applicable laws, rules, and regulations.”

[IDAHO CODE ANN. § 54-5711.](#)

MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

“Telehealth may be used to provide Therapeutic Consultation and Crisis Intervention for children with developmental disabilities. The provider can be a Developmental Disabilities Agency, an independent Medicaid provider under agreement with the Department, or under the Infant Toddler Program. The performing provider must have a Doctoral or Master’s degree in psychology, education, applied behavioral analysis, or in a related discipline with one thousand five hundred (1500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis (may be included as part of degree program), and two years relevant experience in designing and implementing comprehensive behavioral therapies for children with [developmental disabilities] and challenging behavior.”

Idaho Department of Health and Welfare, [Idaho Medicaid Policy: Telehealth Services](#) (effective 1/1/2017).



IDAHO

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

“A provider of telehealth services shall be available for follow-up care or to provide information to patients who make use of such services.”

[IDAHO CODE ANN. § 54-5709.](#)

The guidelines published by the Idaho Board of Psychologist Examiners Task Force and the Idaho Psychological Association state the following:

A strategic, documented plan should be included in the medical or professional record for each telepsychology patient that specifies the operating procedure for dealing with emergencies. This emergency plan should inform the patient of the limits of confidentiality when utilizing telepsychology in emergency situations. An emergency or crisis situation would be defined as a patient who is at risk for harming themselves, others, or property or a significant risk of hospitalization. The psychologist should address emergency situations in a most expedient fashion, in a manner judged as having the best opportunity for assisting the patient and resolving the crisis.

Joint Idaho Psychological Association-Idaho Board of Psychologist Examiners Task Force, [Guidelines for Electronic Transmission and Telepsychology in the State of Idaho](#) (approved 7/12/12).

Idaho is a member of the Association of Social Work Boards (ASWB). While the Idaho Board of Social Work Examiners considers promulgating rules related to the practice of electronic social work, the Model Regulatory Standards for Technology and Social Work Practice, published by the ASWB, serve as guidelines for licensed social workers in the state. The ASWB guidelines state, in part, that social workers who choose to provide electronic social work services shall “[d]iscuss with clients the social workers’ policies concerning digital and other electronic communication between scheduled appointments, during emergencies and social workers’ vacations, and after normal working hours.”

Association of Social Work Boards, [Model Regulatory Standards for Technology and Social Work Practice](#) (Mar. 2015).



IDAHO

According to the Idaho Telehealth Guidelines for Professional Counselors and Marriage and Family Therapists, “[c]ounselors and therapists providing telehealth services shall be familiar with and have appropriate contact information for available medical resources, including emergency resources near the client's location, in order to make appropriate client referrals when medically indicated.”

Idaho Board of Professional Counselors and Marriage and Family Therapists, [Telehealth Guidelines for Professional Counselors and Marriage and Family Therapists](#) (approved 5/6/2016).

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Idaho Medicaid will reimburse for the following telemental health services: (i) psychotherapy with evaluation and management, (ii) psychiatric diagnostic interview, and (iii) therapeutic consultation and crisis intervention.

The Idaho Medicaid policy regarding provision of telehealth services states the following:

“Advanced Practice Registered Nurses . . . who are enrolled as Healthy Connections primary care providers will be reimbursed for telehealth services in accordance with the General Provider and Participant handbook.”

“No reimbursement will be made for the use of equipment at either the originating or distant sites.”

“Reimbursement is not available for a telephone conversation, electronic mail message (e-mail), text messages or facsimile transmission (fax) between a physician and a participant.”

[Idaho Department of Health and Welfare](#), (effective 1/1/2017).



ILLINOIS

What is the definition of “telemedicine” or “telehealth”?

Illinois statutes define “telemedicine” as “the performance of any of the activities . . . including but not limited to rendering written or oral opinions concerning diagnosis or treatment of a patient in Illinois by a person located outside the State of Illinois as a result of transmission of individual patient data by telephonic, electronic, or other means of communication from within [Illinois].”

[225 ILL. COMP. STAT. 60/49.5\(c\).](#)

In the Medicaid context, “telehealth” is defined as “the use of a telecommunication system to provide medical services between places of lesser and greater medical capability and/or expertise, for the purpose of evaluation and treatment. Medical data exchanged can take the form of multiple formats: text, graphics, still images, audio, and video. The information or data exchanged can occur in real time (synchronous) through interactive video or multimedia collaborative environments or in near real time (asynchronous) through ‘store and forward’ applications. . . .”

[Illinois Department of Healthcare and Family Services, *Handbook for Practitioners Rendering Medical Services*, ch. A-200 \(issued Oct. 2016\), at 8.](#)

COUNSELORS

What is the regulatory body in the state that governs the practice of counseling?

Updated link: [Illinois Department of Financial and Professional Regulation – Professional Counselor](#)

Does Medicaid provide coverage for telemental/telebehavioral/telesychiatric health services? If so, what are the coverage criteria?

“For telemedicine services, the provider rendering the service at the distant site can be a physician, physician assistant, podiatrist, or APN who is licensed by the State of Illinois or by the state where the participant is located.”

[Illinois Department of Healthcare and Family Services, *Handbook for Practitioners Rendering Medical Services*, ch. A-200 \(issued Oct. 2016\), at 9.](#)

“For telesychiatry services, the provider rendering the service at the distant site must be a physician licensed by the State of Illinois, or by the state where the patient is



ILLINOIS

located, who has completed an approved general psychiatric residency program or a child and adolescent psychiatric residency program. . . .”

[Illinois Department of Healthcare and Family Services, *Handbook for Practitioners Rendering Medical Services*, ch. A-200 \(issued Oct. 2016\), at 9.](#)

The requirements for the provision of telepsychiatry services to Illinois Medicaid recipients include the following:

- A. A physician, licensed health care professional or other licensed clinician, mental health professional (MHP), or qualified mental health professional (QMHP) . . . must be present at all times with the patient at the originating site.
- B. The distant site provider must be a physician licensed by the State of Illinois or by the state where the patient is located and must have completed an accredited general psychiatry residency program or an accredited child and adolescent psychiatry residency program.
- C. The originating and distant site provider must not be terminated, suspended, or barred from the [Illinois Department of Healthcare and Family Services'] medical programs.
- D. The distant site provider must personally render the telepsychiatry service.
- E. Telepsychatry services must be rendered using an interactive telecommunication system.
- F. Group psychotherapy is not a covered telepsychiatry service.

[ILL. ADMIN. CODE tit. 89, § 140.403\(b\)\(2\).](#)



INDIANA

What is the definition of “telemedicine” or “telehealth”?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), amends the Indiana Medicaid statute definition of “telemedicine services” to match the definition set forth in Indiana Code Section 25-1-9.5-6.

[IND. CODE § 12-15-5-11\(b\)](#), as amended by [House Enrolled Act No. 1337](#).

Among the statutory provisions related to Indiana’s Medicaid program, the phrase “telehealth services” is defined as “the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across a distance.”

[IND. CODE § 12-15-5-11\(a\)](#).

In the insurance coverage context, the phrase “telemedicine services” is defined as “health care services delivered by use of interactive audio, video, or other electronic media, including the following: (1) [m]edical exams and consultations [and] (2) [b]ehavioral health, including substance abuse evaluations and treatment.”

[IND. CODE § 27-8-34-5\(a\)](#).

For purposes of health care consent, “telemedicine” means “a specific method of delivery of services, including medical exams and consultations and behavioral health evaluations and treatment, including those for substance abuse, using videoconferencing equipment to allow a provider to render an examination or other service to a patient at a distant location.”

[IND. CODE § 16-18-2-348.5](#).

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

A license issued by the Medical Licensing Board of Indiana is generally required to practice as a psychiatrist in Indiana.

[IND. CODE § 25-22.5-8-1](#).



INDIANA

Telemedicine providers are required to obtain a Telemedicine Provider Certification with the Indiana Professional Licensing Agency before the provider may establish a provider-patient relationship or issue a prescription for an individual located in Indiana. A psychiatrist is considered a “provider” for the purposes of the Telemedicine Provider Certification requirement because a psychiatrist is a physician licensed under Indiana law. A provider that practices predominantly in Indiana is not required to obtain a Telemedicine Provider Certification. A provider’s employers or contractors are required to obtain a separate Telemedicine Provider Certification.

[Indiana Initial Telemedicine Provider Certification.](#)

[Indiana Telemedicine Provider’s Employer or Contractor Certification.](#)

[IND. CODE § 25-22.5-1-1.](#)

[IND. CODE § 25-1-9.5-8\(a\)\(2\).](#)

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), amends the out-of-state telemedicine provider requirements to state the following:

- (a) “A prescriber who is physically located outside Indiana is engaged in the provision of health care services in Indiana when the prescriber:
 - (1) establishes a provider-patient relationship under this chapter with; or
 - (2) determines whether to issue a prescription under this chapter for;

an individual located in Indiana.

- (b) A prescriber described in subsection (a) may not establish a provider-patient relationship under this chapter with or issue a prescription under this chapter for an individual who is located in Indiana unless the prescriber and the prescriber’s employer or the prescriber’s contractor, for purposes of providing health care services under this chapter, have certified in writing to the Indiana professional licensing agency, in a manner specified by the Indiana professional licensing agency, that the prescriber and the prescriber’s employer or prescriber’s contractor agree to be subject to:
 - (1) the jurisdiction of the courts of law of Indiana; and
 - (2) Indiana substantive and procedural laws;

concerning any claim asserted against the prescriber, the prescriber’s employer, or the prescriber’s contractor arising from the provision of health care services under this chapter to an individual who is located in Indiana at the time the health care services



INDIANA

were provided. The filing of the certification under this subsection shall constitute a voluntary waiver by the prescriber, the prescriber's employer, or the prescriber's contractor of any respective right to avail themselves of the jurisdiction or laws other than those specified in this subsection concerning the claim. However, a prescriber that practices predominately in Indiana is not required to file the certification required by this subsection.

- (c) A prescriber shall renew the certification required under subsection (b) at the time the prescriber renews the prescriber's license.
- (d) A prescriber's employer or a prescriber's contractor is required to file the certification required by this section only at the time of initial certification.”

[IND. CODE § 25-1-9.5-9](#), as amended by [House Enrolled Act No. 1337](#).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), adds the following requirements for establishing a provider-patient relationship via telemedicine:

- (a) “A prescriber who provides health care services through telemedicine shall be held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting.
- (b) A prescriber may not use telemedicine, including issuing a prescription, for an individual who is located in Indiana unless a provider-patient relationship between the prescriber and the individual has been established. A prescriber who uses telemedicine shall, if such action would otherwise be required in the provision of the same health care services in a manner other than telemedicine, ensure that a proper provider-patient relationship is established. The provider-patient relationship by a prescriber who uses telemedicine must at a minimum include the following:
 - (1) Obtain the patient's name and contact information and:
 - (A) a verbal statement or other data from the patient identifying the patient's location; and



INDIANA

- (B) to the extent reasonably possible, the identity of the requesting patient.
- (2) Disclose the prescriber's name and disclose whether the prescriber is a physician, physician assistant, advanced practice nurse, optometrist, or podiatrist.
 - (3) Obtain informed consent from the patient.
 - (4) Obtain the patient's medical history and other information necessary to establish a diagnosis
 - (5) Discuss with the patient the:
 - (A) diagnosis;
 - (B) evidence for the diagnosis; and
 - (C) risks and benefits of various treatment options, including when it is advisable to seek in-person care.
 - (6) Create and maintain a medical record for the patient and, subject to the consent of the patient, notify the patient's primary care provider of any prescriptions the prescriber has issued for the patient if the primary care provider's contact information is provided by the patient. The requirements in this subdivision do not apply when any of the following are met:
 - (A) The prescriber is using an electronic health record system that the patient's primary care provider is authorized to access.
 - (B) The prescriber has established an ongoing provider-patient relationship with the patient by providing care to the patient at least two (2) consecutive times through the use of telemedicine services. If the conditions of this clause are met, the prescriber shall maintain a medical record for the patient and shall notify the patient's primary care provider of any issued prescriptions.
 - (7) Issue proper instructions for appropriate follow-up care.
 - (8) Provide a telemedicine visit summary to the patient, including information that indicates any prescription that is being prescribed."

[IND. CODE § 25-1-9.5-7](#), as amended by [House Enrolled Act No. 1337](#).



INDIANA

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), states the following:

(a) “A prescriber may issue a prescription to a patient who is receiving services through the use of telemedicine if the patient has not been examined previously by the prescriber in person if the following conditions are met: (1) The prescriber has satisfied the applicable standard of care in the treatment of the patient. (2) The issuance of the prescription by the prescriber is within the prescriber’s scope of practice and certification. (3) The prescription: (A) meets the requirements of subsection (b) [related to controlled substances]; and (B) is not an opioid. However, an opioid may be prescribed if the opioid is a partial agonist that is used to treat or manage opioid dependence. (4) The prescription is not for an abortion inducing drug [as defined]. (5) The prescription is not for an ophthalmic device [as described].

(b) Except as provided in subsection (a), a prescriber may issue a prescription for a controlled substance [as defined] to a patient who is receiving services through the use of telemedicine, even if the patient has not been examined previously by the prescriber in person, if the following conditions are met: (1) The prescriber maintains a valid controlled substance registration [as described]. (2) The prescriber meets the conditions set forth in 21 U.S.C. 829 et seq. (3) The patient has been examined in person by a licensed Indiana health care provider and the licensed health care provider has established a treatment plan to assist the prescriber in the diagnosis of the patient. (4) The prescriber has reviewed and approved the treatment plan described in subdivision (3) and is prescribing for the patient pursuant to the treatment plan. (5) The prescriber complies with the requirements of the INSPECT program [as defined].”

[IND. CODE § 25-1-9.5-8\(a\)-\(b\)](#), as amended by [House Enrolled Act No. 1337](#).

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

The term “telemedicine” does not include “the following:

- (1) Audio-only communication.
- (2) A telephone call.



INDIANA

- (3) Electronic mail.
- (4) An instant messaging conversation.
- (5) Facsimile.
- (6) Internet questionnaire.
- (7) Telephone consultation.
- (8) Internet consultation.”

[IND. CODE § 25-1-9.5-6\(b\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Telemedicine providers are required to obtain a Telemedicine Provider Certification with the Indiana Professional Licensing Agency before the provider may establish a provider-patient relationship or issue a prescription for an individual located in Indiana. APRNs are considered “providers” for the purposes of the Telemedicine Provider Certification requirement as they are licensed and granted authority to prescribe under Indiana law. A provider that practices predominantly in Indiana is not required to obtain a Telemedicine Provider Certification. A provider’s employers or contractors are required to obtain a separate Telemedicine Provider Certification.

[Indiana Initial Telemedicine Provider Certification.](#)

[Indiana Telemedicine Provider’s Employer or Contractor Certification.](#)

[IND. CODE § 25-22.5-1-1.](#)

[IND. CODE § 25-1-9.5-8.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), adds the following requirements for establishing a provider-patient relationship via telemedicine:

- (c) “A prescriber who provides health care services through telemedicine shall be held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting.
- (d) A prescriber may not use telemedicine, including issuing a prescription, for an individual who is located in Indiana unless a provider-patient relationship



INDIANA

between the prescriber and the individual has been established. A prescriber who uses telemedicine shall, if such action would otherwise be required in the provision of the same health care services in a manner other than telemedicine, ensure that a proper provider-patient relationship is established. The provider-patient relationship by a prescriber who uses telemedicine must at a minimum include the following:

- (9) Obtain the patient's name and contact information and:
 - (C) a verbal statement or other data from the patient identifying the patient's location; and
 - (D) to the extent reasonably possible, the identity of the requesting patient.
- (10) Disclose the prescriber's name and disclose whether the prescriber is a physician, physician assistant, advanced practice nurse, optometrist, or podiatrist.
- (11) Obtain informed consent from the patient.
- (12) Obtain the patient's medical history and other information necessary to establish a diagnosis
- (13) Discuss with the patient the:
 - (D) diagnosis;
 - (E) evidence for the diagnosis; and
 - (F) risks and benefits of various treatment options, including when it is advisable to seek in-person care.
- (14) Create and maintain a medical record for the patient and, subject to the consent of the patient, notify the patient's primary care provider of any prescriptions the prescriber has issued for the patient if the primary care provider's contact information is provided by the patient. The requirements in this subdivision do not apply when any of the following are met:
 - (C) The prescriber is using an electronic health record system that the patient's primary care provider is authorized to access.



INDIANA

- (D) The prescriber has established an ongoing provider-patient relationship with the patient by providing care to the patient at least two (2) consecutive times through the use of telemedicine services. If the conditions of this clause are met, the prescriber shall maintain a medical record for the patient and shall notify the patient's primary care provider of any issued prescriptions.
- (15) Issue proper instructions for appropriate follow-up care.
- (16) Provide a telemedicine visit summary to the patient, including information that indicates any prescription that is being prescribed."

[IND. CODE § 25-1-9.5-7](#), as amended by [House Enrolled Act No. 1337](#).

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

The term "telemedicine" does not include "the following:

- (1) Audio-only communication.
- (2) A telephone call.
- (3) Electronic mail.
- (4) An instant messaging conversation.
- (5) Facsimile.
- (6) Internet questionnaire.
- (7) Telephone consultation.
- (8) Internet consultation."

[IND. CODE § 25-1-9.5-6\(b\)](#).

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?

A record for each patient receiving mental health services shall be maintained by the provider. The mental health record must contain the information that the division of mental health and addiction, the division of disability and rehabilitative services, or the state department requires by rule. The provider is:



INDIANA

- (1) the owner of the mental health record;
- (2) responsible for the record's safekeeping and
- (3) entitled to retain possession of the record.

The information contained in the mental health record belongs to the patient involved as well as to the provider. The provider shall maintain the original mental health record or a microfilm of the mental health record for at least seven (7) years.

[IND. CODE § 16-39-2-2.](#)

A patient's mental health records are confidential and can generally be disclosed only with the consent of the patient.

[IND. CODE § 16-39-2-3.](#)

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

Telemedicine providers are also required to create and maintain a medical record for a patient.

[IND. CODE § 25-1-9.5-7.](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

Establishing a provider-patient relationship (for physicians and APRNs) includes issuing proper instructions for appropriate follow-up care.

[IND. CODE § 25-1-9.5-7.](#)



INDIANA

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), adds the following reimbursement language:

Medicaid reimburses licensed home health agencies for telemedicine services. Medicaid also reimburses federally qualified health centers, rural health clinics, certified community mental health centers, critical access hospitals, and other eligible providers for “**medically necessary**” telemedicine services. There are no distance restrictions.

[IND. CODE § 12-15-5-11](#), as amended by [House Enrolled Act No. 1337](#).

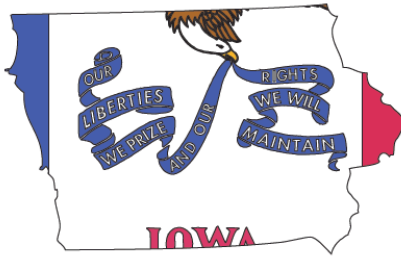
CONTROLLED SUBSTANCES

What are the requirements/laws governing the prescribing of “controlled” substances?”

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), adds the following language related to controlled substance prescriptions issued through telemedicine:

A prescriber may issue a controlled substance prescription to a patient who is receiving services through the use of telemedicine, even if the patient has not been examined previously by the prescriber in person, when certain conditions are met, including (but not limited to) the following: (i) the prescriber maintains a valid controlled substance registration under federal and state law; (ii) the patient has been examined in person by a licensed Indiana health care provider and the licensed health care provider has established a treatment plan; (iii) the prescriber has reviewed and approved the treatment plan; and (iv) the prescriber complies with state inspection, prescription, and dispensing requirements.

[IND. CODE § 25-1-9.5-7](#), as amended by [House Enrolled Act No. 1337](#).



IOWA

PSYCHOLOGISTS

Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

Psychologists only may prescribe psychotropic medications if they hold a valid prescription certificate issued by the Iowa Board of Psychology.

[IOWA CODE §§ 154B.1, 154B.11, 154B.12.](#)

[Iowa Medical Society, Issue Spotlight: Psychologist Prescribing \(Jan. 22, 2016\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)¹

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

In a February 2015 statement, the Iowa Board of Nursing said that, in the event that a patient “travels outside of Iowa and calls into their local physician’s office/clinic or a 24 hour nurse call center,” a registered nurse with a current Iowa license practicing within the guidelines of the Iowa Administrative Code may “answer the patient’s questions or give advice to the patient” if the patient is only in transit and does not reside in another state.”

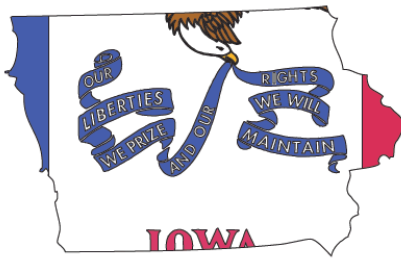
In a February 2015 statement, the Iowa Board of Nursing said that, in the event that a patient residing outside of Iowa calls into an Iowa-based “physician’s office/clinic or 24 hour nurse call center,” a registered nurse may answer the patient’s questions or give advice to the patient if “the state in which the patient is calling from is a member of the nurse licensure compact agreement.”

[Iowa Board of Nursing, Provision of Nursing Services by Telehealth / Electronic Means \(Feb. 2015\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

The Iowa Board of Nursing issued guidelines in February 2015 related to telehealth nursing, stating that “nurses who respond to telephone calls from patients calling from

¹ The Iowa Board of Nursing has confirmed that, although the February 2015 statement is targeted towards the registered nurse scope of practice, the telehealth requirements within the statement may apply to APRNs practicing in Iowa.



IOWA

Iowa shall have a current Iowa license, whether or not the employer is in Iowa or whether or not the person receives compensation.” A nurse also must “practice within the guidelines of the Iowa Administrative Code.”

[Iowa Board of Nursing, *Provision of Nursing Services by Telehealth/Electronic Means* \(Feb. 2015\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

In a February 2015 statement, the Iowa Board of Nursing stated that the use of “telecommunications and health technologies, such as audio, video, or data integrated into [a nurse’s] existing practice” is considered the practice of “telehealth nursing.”

[Iowa Board of Nursing, *Provision of Nursing Services by Telehealth/Electronic Means* \(Feb. 2015\).](#)

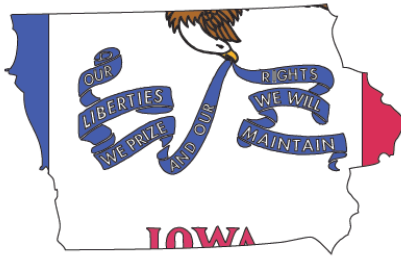
PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

According to an Iowa regulation describing standards of practice for the provision of telemedicine services, “[a] licensee who uses telemedicine shall ensure that all telemedicine encounters comply with the privacy and security measures of [HIPAA] to ensure that all patient communications and records are secure and remain confidential.”

The regulation further provides that written protocols must be established (and reviewed periodically) that address the following:

- “Privacy;
- Health care personnel who will process messages;
- Hours of operation;
- Types of transactions that will be permitted electronically;
- Required patient information to be included in the communication, including patient name, identification number and type of transaction;
- Archiving and retrieval; and
- Quality oversight mechanisms.”



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Further, the written protocols must “include sufficient privacy and security measures to ensure the confidentiality and integrity of patient-identifiable information, including password protection, encryption or other reliable authentication techniques.”

[IOWA ADMIN. CODE r. 653-13.11\(15\).](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telesychiatric health services? If so, what are the coverage criteria?

“Health care services provided through in-person consultations or through telehealth shall be treated as equivalent services for the purposes of reimbursement.”

[IOWA ADMIN. CODE r. 441-78.55\(249A\).](#)



KANSAS

What is the definition of “telemedicine” or “telehealth”?

Updated link and citation: Kansas Medical Assistance Program, [Fee-for-Service Provider Manual: General Benefits](#) (updated Dec. 2016).

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link and citation: [KAN. STAT. ANN. § 65-2803\(a\)](#).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link and citation: Kansas Medical Assistance Program, [Fee-for-Service Provider Manual: General Benefits](#) (updated Dec. 2016).

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

Updated link and citation: Kansas Medical Assistance Program, [Fee-for-Service Provider Manual: General Benefits](#) (updated Dec. 2016).

PSYCHOLOGISTS

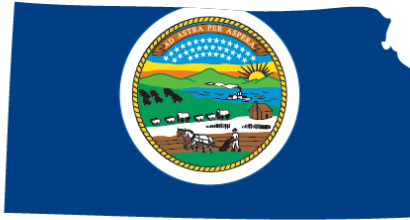
Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link and citation: [KAN. STAT. ANN. § 74-5302\(e\)](#).

SOCIAL WORKERS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link and citation: [KAN. STAT. ANN. § 65-6303\(a\)](#).



KANSAS

COUNSELORS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link and citation: [KAN. STAT. ANN. § 65-5803\(a\)](#).

MARRIAGE/FAMILY THERAPISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link and citation: [KAN. STAT. ANN. § 65-6403\(a\)](#).

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link and citation: [KAN. STAT. ANN. § 65-1113](#).

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Updated link and citation: [KAN. STAT. ANN. § 65-1130\(d\)](#).

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Updated link and citation: Kansas Medical Assistance Program, [Fee-for-Service Provider Manual: General Benefits](#) (updated Dec. 2016).

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

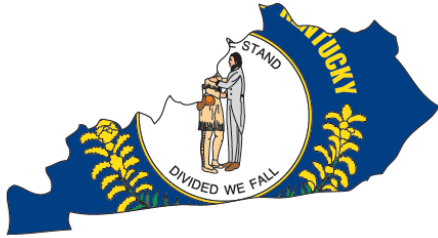
Updated link and citation: [KAN. STAT. ANN. § 65-4101\(f\)](#).



KANSAS

What are the requirements/laws governing the prescribing of “controlled” substances”?

Updated link and citation: [KAN. STAT. ANN. § 65-4123\(c\)](#).



KENTUCKY

What is the definition of “telemedicine” or “telehealth”?

Updated links:

[KY. REV. STAT. ANN. § 205.510.](#)

[KY. REV. STAT. ANN. § 319.140.](#)

What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

Updated link: [201 KY. ADMIN. REGS. 26:310.](#)

PSYCHIATRISTS

What is the regulatory body in the state that governs the practice of psychiatry?

Updated link: [Kentucky Board of Medical Licensure](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [KY. REV. STAT. ANN. § 311.560\(1\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [KY. REV. STAT. ANN. § 311.5975\(1\)\(a\).](#)

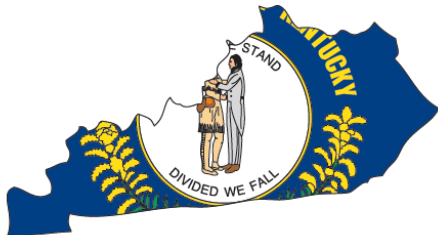
What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

Updated link: [KY. REV. STAT. ANN. § 304.17A-138\(1\)\(b\).](#)

PSYCHOLOGISTS

What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

Updated link: [210 KY. ADMIN. REGS. 26:310\(3\).](#)



KENTUCKY

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [210 KY. ADMIN. REGS. 26:310\(4\)](#).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [KY. REV. STAT. ANN. § 319.140\(1\)\(a\)](#).

What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

Updated link: [210 KY. ADMIN. REGS. 26:310](#).

SOCIAL WORKERS

What is the regulatory body in the state that governs the practice of social work?

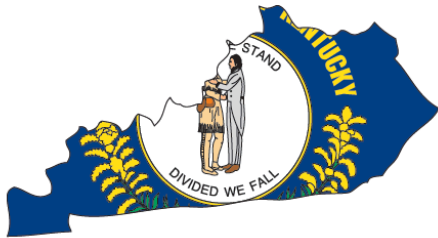
Updated link: [Kentucky Board of Social Work](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [KY. REV. STAT. ANN. § 335.030](#).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [KY. REV. STAT. ANN. § 335.158\(1\)\(a\)](#).



KENTUCKY

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

A Kentucky statute pertaining to the practice of clinical social work defines “telehealth” as “the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.”

[KY. REV. STAT. ANN. § 335.158\(3\).](#)

COUNSELORS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [KY. REV. STAT. ANN. § 335.505\(1\).](#)

MARRIAGE/FAMILY THERAPISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [KY. REV. STAT. ANN. § 335.305\(1\)\(a\).](#)

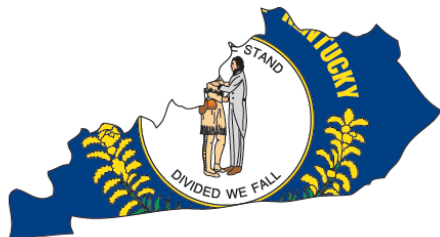
What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [KY. REV. STAT. ANN. § 335.305\(1\)\(a\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of marriage/family therapy via telemedicine/telehealth that meet the standard of care for the state?

A Kentucky statute applicable to marriage and family therapists defines “telehealth” as “the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education.”

[KY. REV. STAT. ANN. § 335.305\(1\)\(a\).](#)



KENTUCKY

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

An APRN is “responsible for determining and documenting that telehealth is appropriate for the patient.”

[201 KY. ADMIN. REGS. 20:520 § 5\(1\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [KY. REV. STAT. ANN. § 314.031\(1\).](#)

An APRN “providing nursing services via telehealth to a person physically located in Kentucky shall be licensed by” the Board of Nursing or “hold a privilege to practice pursuant to [KY. REV. STAT. ANN. §] 314.470” (Kentucky Nursing Compact).

[201 KY. ADMIN. REGS. 20:520 § 2.](#)

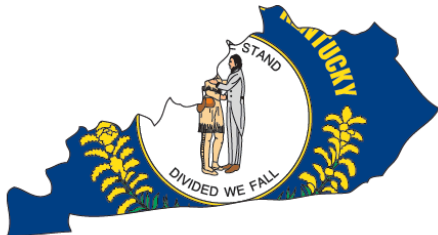
What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“An [APRN] using telehealth to deliver nursing services shall, upon initial contact with the patient:

- (1) Make attempts to verify the identity of the patient;
- (2) Obtain alternative means of contacting the patient other than electronically such as by use of a telephone number or mailing address;
- (3) Provide to the patient alternative means of contacting the nurse other than electronically such as by use of a telephone number or mailing address; and
- (4) Provide contact methods of alternative communication the nurse shall use for emergency purposes such as an emergency on call telephone number.”

[201 KY. ADMIN. REGS. 20:520 § 4.](#)

An APRN must “[i]nform the patient and document acknowledgement of the risk and limitations of:



KENTUCKY

- (a) The use of telehealth in the provision of nursing;
- (b) The potential breach of confidentiality, or inadvertent access, of protected health information using telehealth in the provision of nursing;
- (c) The potential disruption of electronic communication in the use of telehealth;
- (d) When and how the nurse will respond to routine electronic messages;
- (e) The circumstances in which the nurse will use alternative communications for emergency purposes;
- (f) Others who may have access to patient communications with the nurse;
- (g) How communications shall be directed to a specific nurse;
- (h) How the nurse stores electronic communications from the patient; and
- (i) Whether the nurse or patient may elect to discontinue the provision of services through telehealth.”

[201 KY. ADMIN. REGS. 20:520 § 5\(5\).](#)

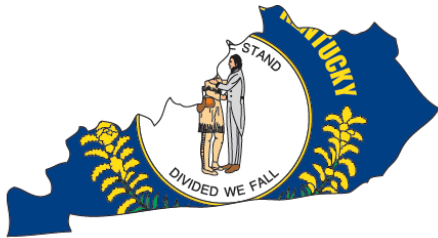
Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Updated link: [KY. REV. STAT. ANN. § 314.195.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

An APRN must use secure telehealth technologies, including “encrypted text messages, via e-mail or secure Web sites,” when communicating with patients.

[201 KY. ADMIN. REGS. 20:520 § 5\(3\).](#)



KENTUCKY

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

Updated links:

[KY. REV. STAT. ANN. § 311.5975\(1\)\(b\).](#)

[KY. REV. STAT. ANN. § 319.140\(1\)\(b\).](#)

[201 KY. ADMIN. REGS. 26:310 § 3\(5\).](#)

[KY. REV. STAT. ANN. § 335.158\(1\)\(b\).](#)

[KY. REV. STAT. ANN. § 335.380\(1\)\(b\).](#)

[KY. REV. STAT. ANN. § 314.155\(1\)\(b\).](#)

An APRN must “[e]nsure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the nurse disposes of electronic equipment and data.”

[201 KY. ADMIN. REGS. 20:520.](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

Updated link: [KY. REV. STAT. ANN. § 304.17A-138.](#)

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Updated links:

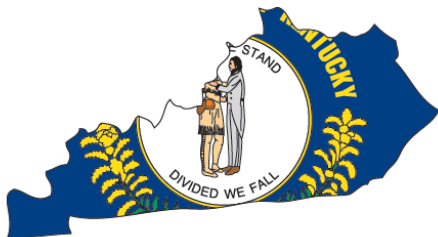
[KY. REV. STAT. ANN. § 205.559\(1\).](#)

[907 KY. ADMIN. REGS. 3:170 § 5\(1\)\(a\).](#)

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

Updated link: [KY. REV. STAT. ANN. § 218A.010\(6\).](#)



KENTUCKY

What are the requirements/laws governing the prescribing of “controlled” substances”?

In April 2017, the General Assembly of the Commonwealth of Kentucky enacted House Bill No. 333, which states the following:

Except when dispensed directly by a practitioner to an ultimate user, no methamphetamine or controlled substance listed in Schedule II may be dispensed without the written, facsimile, or electronic, or oral prescription of a practitioner. A prescription for a controlled substance listed in Schedule II may be dispensed by a facsimile prescription only as specified in administrative regulations promulgated by the cabinet. A prescription for a controlled substance listed in Schedule II may be dispensed by oral prescription only for immediate administration to a patient enrolled in a hospice program or a resident in a long-term care facility, as defined in KRS 216.535, excluding a family care home or personal care home, and the practitioner determines that immediate administration is necessary, no appropriate alternative treatment is available, and it is not reasonably possible for the prescriber to provide a written prescription. No prescription for a controlled substance in Schedule II shall be valid after sixty (60) days from the date issued. No prescription for a controlled substance in Schedule II shall be refilled. All prescriptions for controlled substances classified in Schedule II shall be maintained in a separate prescription file.

[Kentucky House Bill No. 333](#) (to be codified at [KY. REV. STAT. ANN. § 218A.180](#)).



LOUISIANA

What is the definition of “telemedicine” or “telehealth”?

Louisiana regulations provide an additional definition for the term “telemedicine”:

[T]he practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using interactive telecommunication technology that enables a physician and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither an electronic mail message between a physician and a patient, or a true consultation constitutes telemedicine. . . . A physician practicing by telemedicine may utilize interactive audio without the requirement of video if, after access and review of the patient's medical records, the physician determines that he or she is able to meet the same standard of care as if the healthcare services were provided in person.

[LA. ADMIN. CODE tit. 46:XLV, § 7503\(A\).](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Either a medical license or a telemedicine license, both of which are issued by the Louisiana State Board of Medical Examiners, is required.

“The practice of medicine is deemed to occur at the location of the patient. Therefore, no physician shall utilize telemedicine to provide medical services to patients located in this state unless the physician:

1. holds an unrestricted Louisiana medical license; or
2. holds a telemedicine permit as provided in § 408 of these rules.”

[LA. ADMIN. CODE tit. 46:XLV, § 7507\(A\).](#)

“A physician utilizing telemedicine with respect to patients located in this state shall have:

1. access to the patient's medical record;

LOUISIANA

2. if required by the standard of care applicable to the diagnosis or treatment of the patient's complaints in a traditional (face-to-face) setting, the ability:
 - a. to utilize peripherals (such as otoscope and stethoscope);
 - b. to obtain diagnostic testing;
 - c. if necessary in the physician's judgment, to access a patient presenter to assist with the telemedicine encounter; and
 - d. to refer the patient to another physician in this state or arrange for follow-up care within this state as may be indicated for that purpose.”

[LA. ADMIN. CODE tit. 46:XLV, § 7507\(B\).](#)

“Prior to utilizing telemedicine a physician shall insure that the following disclosures have been made to the patient and documented in the medical record. Such disclosures need not be made or documented more than once, except to update the information provided:

1. the name, Louisiana medical license number and contact information [address, telephone number(s)] of the physician;
2. the physician's specialty or area of practice;
3. how to receive follow-up and emergency care;
4. how to obtain copies of medical records and/or insure transmission to another medical provider;
5. how to receive care in the event of a technology or equipment failure; and
6. notification of privacy practices concerning individually identifiable health information, consistent with state and federal laws and regulations.”

[LA. ADMIN. CODE tit. 46:XLV, § 7507\(C\).](#)

“No physician shall utilize telemedicine . . . to authorize or order the prescription, dispensation or administration of any controlled substance unless;

- a. the physician has had at least one in-person visit with the patient within the past year; provided, however, the requirement for an in-person visit shall not apply to

LOUISIANA

- a physician who holds an unrestricted license to practice medicine in this state and who practices telemedicine upon any patient being treated at a healthcare facility that is required to be licensed pursuant to the laws of this state and which holds a current registration with the U.S. Drug Enforcement Administration;
- b. the prescription is issued for a legitimate medical purpose;
 - c. the prescription is in conformity with the same standard of care applicable to an in-person visit; and
 - d. the prescription is permitted by and in conformity with all applicable state and federal laws and regulations.”

[LA. ADMIN. CODE tit. 46:XLV, § 7513\(C\)\(3\).](#)

However, “[t]he board may grant an exception to the limitations of § 7513.C in an individual case that is supported by a physician's written application stating how and why he or she proposes to deviate from § 7513.C. If an exception is granted by the board it shall be stated in writing and specify the manner and extent to which the physician shall be authorized to depart from § 7513.C.”

[LA. ADMIN. CODE tit. 46:XLV, § 7513\(C\)\(4\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

In June 2016, the Louisiana statute governing the practice of telemedicine changed with respect to the conditions under which a physician may engage in a telemedicine encounter without conducting an in-person patient history or physical examination:

- (i) “Holds an unrestricted license to practice medicine in Louisiana.
- (ii) Has access to the patient’s medical records upon consent of the patient.
- (iii) Creates a medical record on each patient and makes such record available to the board upon request.
- (iv) If necessary, provides a referral to a physician in this state or arranges for follow-care in this state as may be indicated.”

[LA. REV. STAT. § 37:1271\(B\)\(2\)\(b\).](#)

The Louisiana statute also now specifies that “[a] physician practicing telemedicine may utilize interactive audio without the requirement of video if, after access and review of the patient’s medical records, the physician determines that he is able to meet the same standard of care as if the healthcare services were provided in person.”



LOUISIANA

[LA. REV. STAT. § 37:1271\(B\)\(6\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

“No physician shall utilize telemedicine . . . to authorize or order the prescription, dispensation or administration of any controlled substance unless;

- a. the physician has had at least one in-person visit with the patient within the past year; provided, however, the requirement for an in-person visit shall not apply to a physician who holds an unrestricted license to practice medicine in this state and who practices telemedicine upon any patient being treated at a healthcare facility that is required to be licensed pursuant to the laws of this state and which holds a current registration with the U.S. Drug Enforcement Administration. . . .”

[LA. ADMIN. CODE tit. 46:XLV, § 7513\(C\)\(3\)\(a\).](#)

SOCIAL WORKERS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [Louisiana State Board of Social Work Examiners, *Electronic Social Work Practice*](#).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [Louisiana State Board of Social Work Examiners, *Electronic Social Work Practice*](#).

The Louisiana State Board of Social Work Examiners website also refers site users to the [ASWB International Technology Task Force, Model Regulatory Standards for Technology and Social Work Practice](#) (2013-2014).



LOUISIANA

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

The Louisiana statute dealing with prescribing authority rules applicable to APRNs has been modified to state the following:

An advanced practice registered nurse (APRN) shall practice in a manner consistent with the definition of advanced practice set forth in R.S. 37:913(3). An APRN may be granted prescriptive authority to prescribe assessment studies, including pharmaceutical diagnostic testing (e.g., dobutamine stress testing) legend and certain controlled drugs, therapeutic regimens, medical devices and appliances, receiving and distributing a therapeutic regimen of prepackaged drugs prepared and labeled by a licensed pharmacist, and free samples supplied by a drug manufacturer, and distributing drugs for administration to and use by other individuals within the scope of practice as defined by the board in R.S. 37.913(3)(b).

[LA. ADMIN. CODE tit. 46:XLVII, § 4513\(D\).](#)

APRNs may prescribe controlled substances.

[LA. ADMIN CODE tit. 46, pt. LIII, § 2745\(A\)\(1\).](#)

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?

Effective Aug. 1, 2017, [Louisiana House Enrolled Bill No. 341](#) amended the Louisiana statute discussing whether a representative to a mental health patient may access the patient's medical records to provide the following:

The treating physician or provider shall act in accordance with an operative advance directive when the principal has been found to be incapable pursuant to R.S. 28:226. Notwithstanding the operative advance directive, the treating physician or provider shall endeavor to communicate with the principal regarding his proposed behavioral health treatment and even continue to obtain the principal's informed consent to



LOUISIANA

all behavioral health treatment decisions if the principal is capable of providing informed consent or refusal.

[LA. REV. STAT. § 28:225\(B\).](#)

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

Louisiana telemedicine regulations pertaining to patient records require the following:

“Patient records shall be:

1. created and maintained for every telemedicine visit according to the same standards of care as in an in-person visit. The record shall clearly reflect and state that the patient encounter occurred by telemedicine;
2. confidential and subject to all applicable state and federal laws and regulations relative to privacy and security of health information;
3. accessible by a patient and the physician consistent with all state and federal laws and regulations; and
4. made available to the patient or a physician to whom the patient may be referred within a reasonable period of time; and
5. made available to the board upon request.”

[LA. ADMIN. CODE tit. 46:XLV, § 7509\(A\).](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

Louisiana telemedicine regulations require that physicians disclose to patients, and document in the medical records, how to receive follow-up and emergency care.

[LA. ADMIN. CODE tit. 46:XLV, § 7507\(C\)\(3\).](#)



LOUISIANA

CONTROLLED SUBSTANCES

What are the requirements/laws governing the prescribing of “controlled” substances?”

Louisiana has added the following requirements to its statute discussing written controlled substance prescriptions:

- (v) “For each prescription drug or device ordered on a prescription form, there shall be a refill instruction, if any.
- (vi) The prescription form shall bear a single printed signature line, and the prescriber shall manually sign the prescription.”

[LA. ADMIN. CODE tit. 46:LIII, §§ 2745\(C\)\(7\)\(a\)\(v\)-\(vi\).](#)



MAINE

What is the definition of “telemedicine” or “telehealth”?

In April 2016, the *MaineCare Benefits Manual* was updated to include a dedicated section regarding the provision of telehealth services.

According to the *MaineCare Benefits Manual*, “Interactive Telehealth Services” means “[r]eal time, interactive visual and audio telecommunications whereby a Member and a Health Care Provider interact remotely through the use of technology.”

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.01-9 \(Apr. 16, 2016\).](#)

According to the *MaineCare Benefits Manual*, “Telehealth Services” means “[t]he use of information technology by a Health Care Provider to deliver clinical services at a distance for the purpose of diagnosis, disease monitoring, or treatment. Telehealth Services may be either Telephonic or Interactive (combined video/audio).”

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.01-10 \(Apr. 16, 2016\).](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated citation: [Maine Board of Licensure in Medicine, *Telemedicine* \(June 10, 2014\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated citation: [Maine Board of Licensure in Medicine, *Telemedicine* \(June 10, 2014\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

Updated citation: [Maine Board of Licensure in Medicine, *Telemedicine* \(June 10, 2014\).](#)



MAINE

PSYCHOLOGISTS

What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

In April 2016, the *MaineCare Benefits Manual* was updated to include a dedicated section regarding the provision of telehealth services.

According to the *MaineCare Benefits Manual*, “Interactive Telehealth Services” means “[r]eal time, interactive visual and audio telecommunications whereby a Member and a Health Care Provider interact remotely through the use of technology.”

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[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.01-10 \(Apr. 16, 2016\).](#)

SOCIAL WORKERS

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

In April 2016, the *MaineCare Benefits Manual* was updated to include a dedicated section regarding the provision of telehealth services.

According to the *MaineCare Benefits Manual*, “Interactive Telehealth Services” means “[r]eal time, interactive visual and audio telecommunications whereby a Member and a Health Care Provider interact remotely through the use of technology.”

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.01-9 \(Apr. 16, 2016\).](#)

According to the *MaineCare Benefits Manual*, “Telehealth Services” means “[t]he use of information technology by a Health Care Provider to deliver clinical services at a distance for the purpose of diagnosis, disease monitoring, or treatment. Telehealth Services may be either Telephonic or Interactive (combined video/audio).”



MAINE

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.01-10 \(Apr. 16, 2016\).](#)

COUNSELORS

What are the acceptable modalities (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

In April 2016, the *MaineCare Benefits Manual* was updated to include a dedicated section regarding the provision of telehealth services.

According to the *MaineCare Benefits Manual*, “Interactive Telehealth Services” means “[r]eal time, interactive visual and audio telecommunications whereby a Member and a Health Care Provider interact remotely through the use of technology.”

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.01-9 \(Apr. 16, 2016\).](#)

According to the *MaineCare Benefits Manual*, “Telehealth Services” means “[t]he use of information technology by a Health Care Provider to deliver clinical services at a distance for the purpose of diagnosis, disease monitoring, or treatment. Telehealth Services may be either Telephonic or Interactive (combined video/audio).”

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.01-10 \(Apr. 16, 2016\).](#)

MARRIAGE/FAMILY THERAPISTS

What are the acceptable modalities (e.g., telephone, video) for the practice of marriage/family therapy via telemedicine/telehealth that meet the standard of care for the state?

In April 2016, the *MaineCare Benefits Manual* was updated to include a dedicated section regarding the provision of telehealth services.

According to the *MaineCare Benefits Manual*, “Interactive Telehealth Services” means “[r]eal time, interactive visual and audio telecommunications whereby a Member and a Health Care Provider interact remotely through the use of technology.”

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.01-9 \(Apr. 16, 2016\).](#)



MAINE

According to the *MaineCare Benefits Manual*, “Telehealth Services” means “[t]he use of information technology by a Health Care Provider to deliver clinical services at a distance for the purpose of diagnosis, disease monitoring, or treatment. Telehealth Services may be either Telephonic or Interactive (combined video/audio).”

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.01-10 \(Apr. 16, 2016\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Updated link: [02-380-8 ME. CODE R. § 6.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

In April 2016, the *MaineCare Benefits Manual* was updated to include a dedicated section regarding the provision of telehealth services.

According to the *MaineCare Benefits Manual*, “Interactive Telehealth Services” means “[r]eal time, interactive visual and audio telecommunications whereby a Member and a Health Care Provider interact remotely through the use of technology.”

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.01-9 \(Apr. 16, 2016\).](#)

According to the *MaineCare Benefits Manual*, “Telehealth Services” means “[t]he use of information technology by a Health Care Provider to deliver clinical services at a distance for the purpose of diagnosis, disease monitoring, or treatment. Telehealth Services may be either Telephonic or Interactive (combined video/audio).”

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.01-10 \(Apr. 16, 2016\).](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

In April 2016, the *MaineCare Benefits Manual* was updated to include a dedicated section regarding the provision of telehealth services.



MAINE

The *MaineCare Benefits Manual* requires telehealth technology to be HIPAA-compliant.

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.06-1\(B\)\(1\) \(Apr. 16, 2016\).](#)

In addition, technology must be “performed on a secure telecommunications line or utilize a method of encryption adequate to protect the confidentiality and integrity of the . . . information in accordance with State and Federal laws, rules, and regulations.” The originating and receiving sites must “use authentication and identification to ensure the confidentiality” of the telehealth service.

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.06-1\(B\)\(2\)-\(3\) \(Apr. 16, 2016\).](#)

Providers must implement confidentiality protocols that include, but are not limited to, the following:

- a. “Identifying personnel who have access to a telehealth transmission;
- b. Usage of unique passwords or identifiers for each employee or person with access to a telehealth transmission; and
- c. Preventing unauthorized access to a telehealth transmission.”

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.06-1\(B\)\(4\) \(Apr. 16, 2016\).](#)

Updated citation: [Maine Board of Licensure in Medicine, *Telemedicine* \(June 10, 2014\).](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

Updated citation: [Maine Board of Licensure in Medicine, *Telemedicine* \(June 10, 2014\).](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

In April 2016, the *MaineCare Benefits Manual* was updated to include a dedicated section regarding the provision of telehealth services.



MAINE

Member Eligibility:

“If a Member is eligible for the underlying Covered Service to be delivered, and if delivery of the Covered Service via Telehealth is medically appropriate, as determined by the Health Care Provider, the Member is eligible for Telehealth Services.”

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.02-1 \(Apr. 16, 2016\).](#)

Provider Requirements:

“In order to be eligible for reimbursement for Telehealth Services, a Health Care Provider must be:

- A. Acting within the scope of his or her license;
- B. Enrolled as a MaineCare provider; and
- C. Otherwise eligible to deliver the underlying Covered Service according to the requirements of the applicable section of the *MaineCare Benefits Manual*.”

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.03-1 \(Apr. 16, 2016\).](#)

“With the exception of those services described in Section 4.05 of this policy (Non-Covered Services and Limitations), any medically necessary MaineCare Covered Service may be delivered via Interactive Telehealth Services, provided the following requirements are met:

1. The Member is otherwise eligible for the Covered Service, as described in the appropriate section of the MaineCare Benefits Manual; and
2. The Covered Service delivered by Interactive Telehealth Services is of comparable quality to what it would be were it delivered in person.

Prior authorization is required for Interactive Telehealth Services only if prior authorization is required for the underlying Covered Service. In these cases, the prior authorization is the usual prior authorization for the underlying Covered Service, rather than prior authorization of the mode of delivery. A face to face encounter prior to telehealth is not required.”

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.04-1 \(Apr. 16, 2016\).](#)

“Telephone services may be reimbursed if the following conditions are met:



MAINE

1. Interactive Telehealth Services are unavailable; and
2. A Telephonic Service is medically appropriate for the underlying Covered Service.”

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.04-2 \(Apr. 16, 2016\).](#)

“Services not otherwise covered by MaineCare are not covered when delivered via Telehealth Services.” *The MaineCare Benefits Manual* includes a full list of non-covered services and limitations.

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.05 \(Apr. 16, 2016\).](#)

Reimbursement:

- A. “Services are to be billed in accordance with applicable sections of the MaineCare Benefits Manual. Providers must submit claims in accordance with Department billing instructions. The same procedure codes and rates apply to the underlying Covered Service as if those Services were delivered face to face.
- B. Telehealth Services are subject to all conditions and restrictions described in Chapter I Section 1 of the MaineCare Benefits Manual (MBM).
- C. Telehealth Services are subject to co-payment requirements for the underlying Covered Service, if applicable, as established in Chapter I, Section 1 of the MCBM. However, there shall be no separate co-payment for telehealth services.”

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.07-1 \(Apr. 16, 2016\).](#)

1. “Except as described below, only the Health Care Provider at the Receiving (Provider) Site may receive payment for Telehealth Services.
2. When billing for Interactive Telehealth Services, Health Care Providers at the Receiving (Provider) Site should bill for the underlying Covered Service using the same claims they would if it were delivered face to face, and should add the GT modifier.
3. When billing for Telephonic Services, Health Care Providers at the Receiving (Provider) Site should use E&M codes 99446 through 99449. The GT modifier should not be used.



MAINE

4. No separate transmission fees will be paid for Interactive Telehealth Services. The only services that may be billed by the Health Care Provider at the Receiving (Provider) Site are the fees for the underlying Covered Service delivered plus the GT modifier or the 99445 – 99449 codes.”

[MaineCare Benefits Manual, *Telehealth*, ch. 1 § 4.07-2\(A\) \(Apr. 16, 2016\).](#)

1. “If the Health Care Provider at the Originating (Member) Site is making a room and telecommunications equipment available but is not providing clinical services, the Health Care Provider at the Originating (Member) Site may bill MaineCare for an Originating Facility Fee using code Q3014 for the service of coordinating the Telehealth Service. An Originating Facility Fee may not be billed for a Telephonic Service.
2. The Health Care Provider at the Originating (Member) Site may not bill for assisting the Health Care Provider at the Receiving (Provider) Site with an examination.
3. No separate transmission fees will be paid for Interactive Telehealth Services.
4. The Health Care Provider at the Originating (Provider) Site may bill for any clinical services provided on-site on the same day that a Telehealth Service claim is made, except as specifically excluded elsewhere in this section.
5. Telehealth Services are not covered under the encounter rate for rural health clinic (RHC) core services provided under Chapter II, Section 103 of the MBM, federally qualified health center (FQHC) core services provided under Chapter II, Section 31 of the MCBM, or Indian Health Centers (IHC) core services provided under Chapter II, Section 9 of the MBM, where reimbursement is based on a face to face encounter between a Health Care Provider and a Member. When an FQHC or RHC serves as the Originating (Provider) Site, the Originating Facility Fee is paid separately from the center or clinic all-inclusive rate.
6. In the event an interpreter is required, the Healthcare Provider at either the Originating (Member) Site or the Receiving (Provider) site may bill for interpreter services in accordance with the provisions of Chapter I, Section 1 of the MBM. Members may not bill or be reimbursed by the Department for interpreter services utilized during a telehealth encounter.



MAINE

7. If the technical component of an X-ray, ultrasound or electrocardiogram is performed at the Originating (Member) Site during a Telehealth Service, the technical component and the Originating Facility Fee are billed by the Health Care Provider at the Originating (Member) Site. The professional component of the procedure and the appropriate visit code are billed by the Receiving (Provider) Site.
8. The Originating Facility Fee may only be billed in the event that the Originating (Member) Site is in a Health Care Provider's facility."

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.07-2\(B\) \(Apr. 16, 2016\).](#)

"The Health Care Providers at the Receiving and Originating Sites may be part of the same organization. In addition, a Health Care Provider at the Originating (Member) Site may bill MaineCare and receive payment for Telehealth Services if the service is provided by a qualified professional who is under a contractual arrangement with the Originating (Member) Site."

[MaineCare Benefits Manual, Telehealth, ch. 1 § 4.07-2\(C\) \(Apr. 16, 2016\).](#)

The MaineCare Benefits Manual includes a complete list of telehealth procedure codes and respective reimbursement rates.

[MaineCare Benefits Manual, Telehealth, ch. 1 §§ 4.07-4, 4.08 \(Apr. 16, 2016\).](#)



MARYLAND

What is the definition of “telemedicine” or “telehealth”?

Updated link: [MD. CODE REGS. 10.32.05.02.](#)

What is the definition of “telemental,” “telemental,” and “telepsychiatry”?

According to Maryland’s mental hygiene statute, “telemental health” is defined as “the delivery of mental health care at a distance through the use of technology-assisted communication.”

[MD. CODE REGS. 10.21.30.02.](#)

PSYCHIATRISTS

What is the regulatory body in the state that governs the practice of psychiatry?

Updated link: [Maryland Board of Physicians](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, a license issued by the Maryland Board of Physicians is generally required to practice as a psychiatrist in Maryland: “An individual shall be a licensed Maryland physician in order to practice telemedicine if one or both of the following occurs: (A) the individual practicing telemedicine is physically located in Maryland; (B) the patient is in Maryland.”

[MD. CODE REGS. 10.32.05.03.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

However, “[i]f a physician-patient relationship does not include prior in-person, face-to-face interaction with a patient, the physician shall incorporate real-time auditory communications or real-time visual and auditory communications to allow a free exchange of information between the patient and the physician performing the patient evaluation.”



MARYLAND

[MD. CODE REGS. 10.32.05.05.](#)

PSYCHOLOGISTS

What is the regulatory body in the state that governs the practice of psychology?

Updated link: [Maryland Board of Psychology Examiners](#)

What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

None identified.

However, in order to be a participating provider in the Maryland Medical Assistance Program, a provider shall:

“(1) Except when the originating site is not a Medicaid payable provider, be enrolled as a Medical Assistance Program provider on the date of the service is rendered;

(2) Except when the originating site is not a Medicaid payable provider, meet the requirements for participation in the Medical Assistance Program as set forth in:

(a) COMAR 10.09.36.02;

(b) COMAR 10.09.36.03; and

(c) The COMAR chapter defining the covered service being rendered;

(3) Register for participation in the Program;

(4) Engage in telehealth with a permitted telehealth provider registered with the Department, except when the originating site is not a Medicaid payable provider; and

(5) If a behavioral health service provider, be registered as a provider through the ASO on the date the service is rendered.”

[MD. CODE REGS. 10.09.49.07\(A\).](#)

“A service provided through telehealth is subject to the same program restrictions, preauthorizations, limitations, and coverage that exist for the service when provided in person.”

[MD. CODE REGS. 10.09.49.10\(A\).](#)



MARYLAND

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, “an eligible originating and distant site provider shall register with the Department before providing telehealth services.”

[MD. CODE REGS. 10.09.49.03.](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

Yes.

Maryland’s medical practice regulations include standards related to the practice of telemedicine that require a physician to do the following:

- “Develop a procedure to verify the identification of the individual transmitting a communication;
- Develop a procedure to prevent access to data by unauthorized persons through password protection, encryption, or other means; and
- Develop a policy on how soon an individual can expect a response from the physician to questions or other requests included in transmissions.”

[MD. CODE REGS. 10.32.05.04\(A\)\(2\)-\(4\).](#)

Specific to psychologists, “[t]he originating and distant site providers:

- A. Shall comply with the laws and regulations concerning the privacy and security of protected health information under:
 - (1) Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and
 - (2) The Health Insurance Portability and Accountability Act of 1995 (HIPAA), 42 U.S.C. §§ 1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§ 17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended;



MARYLAND

- B. Shall ensure that all interactive video technology-assisted communication comply with HIPAA patient privacy and security regulations at the originating site, at the distance site, and in the transmission process;
- C. May not disseminate any participant images or information to other entities without the participant's consent, unless there is an emergency that prevents obtaining consent; and
- D. May not store at originating and distant sites the video images or audio portion of the telehealth service for future use."

[MD. CODE REGS. 10.09.49.09.](#)

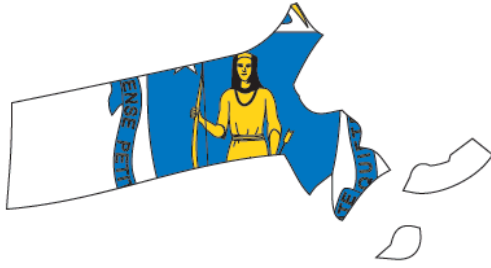
COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

Updated link: [MD. CODE ANN., INS. § 15-139.](#)

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

Updated link and citation: [MD. CODE ANN., INS. § 15-139\(c\)\(2\).](#)



MASSACHUSETTS

The information provided in Epstein Becker Green's 2016 survey for the state of Massachusetts remains current as of June 2017.



MICHIGAN

What is the definition of “telemedicine” or “telehealth”?

“Telehealth’ means the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Telehealth may include, but is not limited to, telemedicine. As used in this subdivision, ‘telemedicine’ means that term as defined in section 3476 of the insurance code of 1956, 1956 PA 218, MCL 500.3476.”

[MICH. COMP. LAWS § 333.16283.](#)

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

None identified.

However, Michigan law provides that “a health professional shall not provide a telehealth service without directly or indirectly obtaining consent for treatment.”

[MICH. COMP. LAWS § 333.16284.](#)

A “health professional” is defined as “an individual who is engaging in the practice of a health profession.”

[MICH. Comp. Laws § 333.16283\(a\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes. Michigan law provides as follows:

“A health professional who is providing a telehealth service to a patient may prescribe the patient a drug if both of the following are met:

(a) The health professional is a prescriber who is acting within the scope of his or her practice in prescribing the drug.

(b) If the health professional is prescribing a drug that is a controlled substance, the health professional meets the requirements of this act applicable to that health professional for prescribing a controlled substance.”



MICHIGAN

[MICH. COMP. LAWS § 333.16285\(1\).](#)

A “health professional” is defined as “an individual who is engaging in the practice of a health profession.”

[MICH. COMP. LAWS § 333.16283\(a\).](#)

“[A] disciplinary subcommittee may place restrictions or conditions on a health professional's ability to provide a telehealth service if the disciplinary subcommittee finds that the health professional has violated section 16284 or 16285.”

[MICH. COMP. LAWS § 333.16286.](#)

SOCIAL WORKERS

What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

“[A] disciplinary subcommittee may place restrictions or conditions on a health professional's ability to provide a telehealth service if the disciplinary subcommittee finds that the health professional has violated section 16284 or 16285.”

[MICH. COMP. LAWS § 333.16286.](#)

COUNSELORS

What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

None identified.

However, Michigan law provides that “a health professional shall not provide a telehealth service without directly or indirectly obtaining consent for treatment.”

[MICH. COMP. LAWS § 333.16284.](#)

A “health professional” is defined as “an individual who is engaging in the practice of a health profession.”

[MICH. COMP. LAWS § 333.16283\(a\).](#)



MICHIGAN

MARRIAGE/FAMILY THERAPISTS

What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

None identified.

However, Michigan law provides that “a health professional shall not provide a telehealth service without directly or indirectly obtaining consent for treatment.”

[MICH. COMP. LAWS § 333.16284.](#)

A “health professional” is defined as “an individual who is engaging in the practice of a health profession.”

[MICH. COMP. LAWS § 333.16283\(a\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

None identified.

However, Michigan law provides that “a health professional shall not provide a telehealth service without directly or indirectly obtaining consent for treatment.”

[MICH. COMP. LAWS § 333.16284.](#)

A “health professional” is defined as “an individual who is engaging in the practice of a health profession.”

[MICH. COMP. LAWS § 333.16283\(a\).](#)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes. Michigan law provides as follows:

“A health professional who is providing a telehealth service to a patient may prescribe the patient a drug if both of the following are met:



MICHIGAN

(a) The health professional is a prescriber who is acting within the scope of his or her practice in prescribing the drug.

(b) If the health professional is prescribing a drug that is a controlled substance, the health professional meets the requirements of this act applicable to that health professional for prescribing a controlled substance.”

[MICH. COMP. LAWS § 333.16285\(1\).](#)

A “health professional” is defined as “an individual who is engaging in the practice of a health profession.”

[MICH. COMP. LAWS § 333.16283\(a\).](#)

“[A] disciplinary subcommittee may place restrictions or conditions on a health professional's ability to provide a telehealth service if the disciplinary subcommittee finds that the health professional has violated section 16284 or 16285.”

[MICH. COMP. LAWS § 333.16286.](#)

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

Updated hyperlink: [MICH. COMP. LAWS § 333.7104.](#)

What are the requirements/laws governing the prescribing of “controlled” substances”?

Yes. Michigan law provides as follows:

“A health professional who is providing a telehealth service to a patient may prescribe the patient a drug if both of the following are met:

(a) The health professional is a prescriber who is acting within the scope of his or her practice in prescribing the drug.

(b) If the health professional is prescribing a drug that is a controlled substance, the health professional meets the requirements of this act applicable to that health professional for prescribing a controlled substance.”



MICHIGAN

[MICH. COMP. LAWS § 333.16285\(1\).](#)

A “health professional” is defined as “an individual who is engaging in the practice of a health profession.”

[MICH. COMP. LAWS § 333.16283\(a\).](#)

“[A] disciplinary subcommittee may place restrictions or conditions on a health professional's ability to provide a telehealth service if the disciplinary subcommittee finds that the health professional has violated section 16284 or 16285.”

[MICH. COMP. LAWS § 333.16286.](#)



MINNESOTA

What is the definition of “telemedicine” or “telehealth”?

According to a newly enacted Minnesota statutory provision, the term “telemedicine” means the delivery of health care services or consultations while the patient is at an originating site and the licensed health care provider is at a distant site. A communication between licensed health care providers that consists solely of a telephone conversation, e-mail, or facsimile transmission does not constitute telemedicine consultations or services. A communication between a licensed health care provider and a patient that consists solely of an e-mail or facsimile transmission does not constitute telemedicine consultations or services. Telemedicine may be provided by means of real-time two-way interactive audio, and visual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health care delivery, that facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care.”

[MINN. STAT. § 256B.0625\(3b\)\(d\).](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

“A health carrier shall not exclude a service for coverage solely because the service is provided via telemedicine and is not provided through in-person consultation or contact between a licensed health care provider and a patient.”

[MINN. STAT. § 62A.672\(2\).](#)

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

“(a) A health carrier shall reimburse the distant site licensed health care provider for covered services delivered via telemedicine on the same basis and at the same rate as the health carrier would apply to those services if the services had been delivered in person by the distant site licensed health care provider.



MINNESOTA

(b) It is not a violation of this subdivision for a health carrier to include a deductible, co-payment, or coinsurance requirement for a health care service provided via telemedicine, provided that the deductible, co-payment, or coinsurance is not in addition to, and does not exceed, the deductible, co-payment, or coinsurance applicable if the same services were provided through in-person contact.”

[MINN. STAT. § 62A.672\(3\).](#)



MISSISSIPPI

What is the definition of “telemedicine” or “telehealth”?

A Mississippi statute regarding professional licensure requirements defines “telemedicine” as “the practice of medicine across state lines,” including one or both of the following:

“(a) Rendering of a medical opinion concerning diagnosis or treatment of a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his agent; or

(b) The rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or his agent.”

[MISS. CODE ANN. § 73-25-34\(1\).](#)

A Mississippi statute regarding insurance coverage defines “telemedicine” as “the delivery of health care services such as diagnosis, consultation, or treatment through the use of interactive audio, video, or other electronic media. Telemedicine must be ‘real-time’ consultation, and it does not include the use of audio-only telephone, e-mail, or facsimile.”

[MISS. CODE ANN. § 83-9-351\(1\)\(d\).](#)

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

Mississippi’s telemedicine regulations were updated in March 2017 and provide the following:

Physicians using telemedicine technologies to provide care to patients located in Mississippi must provide an appropriate examination prior to diagnosis and treatment of the patient. However, this exam need not be in person if the technology is sufficient to provide the adequate information needed by the physician as if the exam had been performed face-to-face.

The management of chronic illnesses requires the evaluation of laboratory tests at times therefore the use of telehealth services does not



MISSISSIPPI

alleviate the need for use of these tests to properly evaluate and monitor disease status and control. This can be accomplished in partnership with a traditional health facility where in-person health care services with laboratory testing are provided to the patient and results are made available to the telehealth provider or by the patient providing the results from current and appropriate laboratory testing to the telehealth provider.

A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise. Treatment and consultation recommendations including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (encounter in person) settings. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care [footnote omitted]. Such practice is a violation of this policy and may subject the physician to discipline by the Board.

[30-2635 Miss. CODE R. § 5.6.](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Mississippi's telemedicine regulations were updated in March 2017 and provide that "[t]he practice of medicine is deemed to occur in the location of the patient. Therefore only physicians who hold a valid unrestricted Mississippi license are allowed to practice telemedicine in Mississippi."

[30-2635 Miss. CODE R. § 5.3.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Mississippi's telemedicine regulations were updated in March 2017 and provide that "[w]here an existing physician-patient relationship is not present, a physician must take appropriate steps to establish a physician-patient relationship consistent with standard of practice guidelines, such physician-patient relationships may be established using telemedicine technologies provided the standard of care is met."



MISSISSIPPI

[30-2635 MISS. CODE R. § 5.4.](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Mississippi's telemedicine regulations were updated in March 2017 and provide the following:

Prescribing medications, in-person or via telemedicine, is at the professional discretion of the physician. The indication, appropriateness, and safety considerations for each telemedicine visit prescription must be evaluated by the physician in accordance with current standards of practice and consequently carry the same professional accountability as prescriptions delivered during an encounter in person. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, physicians may exercise their judgment and prescribe medications as part of telemedicine encounters. A physician may not prescribe medications based on a phone call or a questionnaire for the purpose of telemedicine. Videoconferencing is required as part of the teleconsult if a medication is to be prescribed. Telehealth services is not intended and therefore shall not be used for the management of chronic pain with controlled substance prescription drugs. . . .

[30-2635 MISS. CODE R. § 5.16.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

Mississippi's telemedicine regulations were updated in March 2017 and provide that "[t]elemedicine does not include an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It involves the application of secure videoconferencing or store and forward technology to provide or support healthcare delivery by replicating the interaction of a traditional, encounter in person between a provider and a patient."

[30-2635 MISS. CODE R. § 5.2.](#)



MISSISSIPPI

COUNSELORS

What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

Individual and Group Supervision provided by a [Board Qualified Supervisor or “BQS”] with the [Licensed Professional Counselor Supervisor or “LPC-S”] credential to Applicants who have completed the educational requirements for licensure may be provided by way of Distance Professional Services under the following criteria only:

- a. The LPC-S must hold a Distance Credentialed Counselor credential from the Center for Credentialing and Education. The credential must be on file with the LPC Board office prior to initiating supervision through distance means.
- b. Distance supervision sessions must be provided by means of synchronous video conferencing only. Supervision by telephone, email, chat, or other forms of communication must be reserved to only emergency communications.
- c. The Supervision Agreement submitted to the LPC Board must include information explaining the use and limits of distance supervision, specify the qualifications of the LPC-S to provide distance supervision, and establish procedures for managing the failure of the video communication system.

[30-2201 Miss. CODE R. § 4.3\(A\)\(3\).](#)

While Mississippi regulations pertaining to counselors do not specifically define “telemedicine,” there are some references in these regulations to “Distance Professional Services,” and this term is defined as “[c]ounseling, consulting, and clinical supervision services provided by a professional in one location to a recipient of services in another location by means of electronic communication in either asynchronous methods including email and social network systems or synchronous methods such as telephone, chat, and video systems.”

[30-2201 Miss. CODE R. § 1.4\(N\).](#)



MISSISSIPPI

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“Any person that provides counseling or supervision services through the means of Distance Professional Services must be licensed both in the location where services are provided by the professional as well as in the location of the recipient of the services. Distance Professional Services must be performed in accordance with these Rules and Regulations, the current American Counseling Association’s Code of Ethics, the current National Board for Certified Counselors Policy Regarding the Provision of Distance Professional Services, and Mississippi and Federal law.”

[30-2201 MISS. CODE R. § 7.5.](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

Mississippi’s telemedicine regulations were updated in March 2017 and provide the following:

The provider treating a patient through a telemedicine network must maintain a complete record of the patient’s care. The provider must maintain the record’s confidentiality and disclose the record to the patient consistent with state and federal laws. If the patient has a primary treating provider and a telemedicine provider for the same medical condition, then the primary provider’s medical record and the telemedicine provider’s record constitute one complete patient record. There must be a mechanism in place to facilitate sharing of medical records between providers when appropriate or at the patient’s request. The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-physician communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine technologies. Informed consents obtained in connection with an encounter involving telemedicine technologies should also be filed in the medical record. The patient record established during the use of telemedicine technologies must be accessible and documented for both the physician and the patient, consistent with all established laws and regulations governing patient healthcare records.



MISSISSIPPI

[30-2635 Miss. CODE R. § 5.12.](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

Mississippi's telemedicine regulations were updated in March 2017 and provide the following:

Patients should be able to seek, with relative ease, follow-up care or information from the physician [or physician's designee] who conducts an encounter using telemedicine technologies. Physicians solely providing services using telemedicine technologies with no existing physician-patient relationship prior to the encounter must make documentation of the encounter using telemedicine technologies easily available to the patient, and subject to the patient's consent, any identified care provider of the patient immediately after the encounter. Patients must be provided contact information that will enable them to contact the physician or designee for questions regarding appointments, treatment plans, or prescriptions.

[30-2635 Miss. CODE R. § 5.9.](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

Updated link: [MISS. CODE ANN. § 83-9-351.](#)

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

Updated links: [MISS. CODE ANN. §§ 83-9-351, -353.](#)



MISSISSIPPI

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Updated link: [MISS. CODE ANN. § 83-9-353.](#)

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

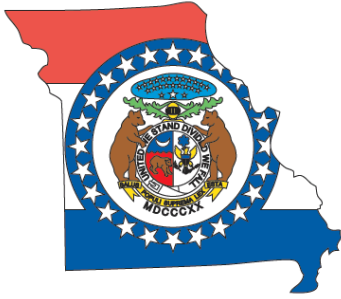
Updated link: [MISS. CODE ANN. § 41-29-105.](#)

What are the requirements/laws governing the prescribing of “controlled” substances”?

Updated links:

[MISS. CODE ANN. § 73-21-127.](#)

[MISS. CODE ANN. § 41-29-137.](#)



MISSOURI

What is the definition of “telemedicine” or “telehealth”?

“Telehealth” or “telemedicine” means “the delivery of health care services by means of information and communication technologies which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while such patient is at the originating site and the health care provider is at the distant site. Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology.”

[MO. REV. STAT. § 191.1145\(1\)\(6\).](#)

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

None identified.

However, the Missouri telehealth services statute states that “[a]ny licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person.”

[MO. REV. STAT. § 191.1145\(2\).](#)

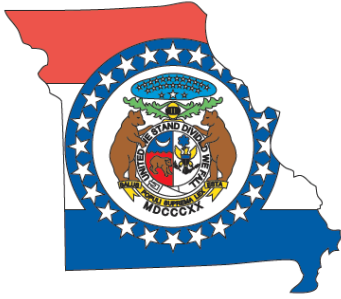
What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“The physician-patient relationship may be established by . . . [a] telemedicine encounter, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine.”

[MO. REV. STAT. § 191.1146\(1\)\(3\).](#)

“In order to establish a physician-patient relationship through telemedicine:

(1) The technology utilized shall be sufficient to establish an informed diagnosis as though the medical interview and physical examination has been performed in person; and



MISSOURI

(2) Prior to providing treatment, including issuing prescriptions, a physician who uses telemedicine shall interview the patient, collect or review relevant medical history, and perform an examination sufficient for the diagnosis and treatment of the patient. A questionnaire completed by the patient, whether via the internet or telephone, does not constitute an acceptable medical interview and examination for the provision of treatment by telehealth.”

[MO. REV. STAT. § 191.1146\(2\).](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

Updated link: [MO. REV. STATE § 376.1900.](#)

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

Updated link: [MO. REV. STATE § 376.1900.](#)

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

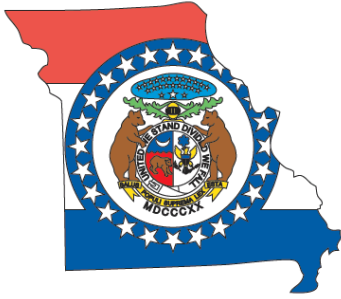
“Providers eligible to receive payment for Telehealth services include:

- Physicians
- Advanced Registered Nurse Practitioners, including Nurse Practitioners with a Mental Health specialty
- Psychologists”

[MO HealthNet, Physician Manual, sec. 13.69 \(May 4, 2017\), at 280.](#)

“Telehealth services are only covered if medically necessary. Coverage of services rendered through Telehealth at the distant site is limited to:

- Consultations made to confirm a diagnosis; or
- Evaluation and management services; or



MISSOURI

- A diagnosis, therapeutic, or interpretative service; or
- Individual psychiatric or substance abuse assessment diagnostic interview examinations; or Individual psychotherapy.”

[MO HealthNet, Physician Manual, sec. 13.69\(A\) \(May 4, 2017\), at 279-80.](#)

“The consulting provider at the distant site may request a Telepresenter to be present with the participant at the originating site to assist with the service. A Telepresenter will aid in the examination by following the orders of the consulting provider, including the manipulation of cameras and appropriate placement of other peripheral devices used to conduct the patient examination. The services of the Telepresenter are included in the reimbursement of the facility fee billed by the originating site and are not separately reimbursable.”

[MO HealthNet, Physician Manual, sec. 13.69 \(May 4, 2017\), at 281.](#)

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

Updated link and citation: [MO. REV. STAT. § 208.670.](#)

What are the requirements/laws governing the prescribing of “controlled” substances”?

Updated links:

[MO. CODE REGS. tit. 19, § 30-1.041.](#)

[MO. CODE REGS. tit. 19, § 30-1.048.](#)



MONTANA

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Senate Bill 77 directed the Montana Board of Medical Examiners to enact guidelines by administrative rule for the practice of telemedicine by physicians. Accordingly, effective April 28, 2017, and via the *Montana Administrative Register*, the Montana Board of Medical Examiners repealed telemedicine license rules (MONT. ADMIN. R. 24.156.803, 24.156.804, 24.156.805, 24.156.806, 24.156.807, 24.156.808, 24.156.809, 24.156.811, and 24.156.812), as Senate Bill 77 eliminated the telemedicine license.

[Montana Administrative Register no. 8 \(Apr. 28, 2017\), at 487-91.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

None identified.

However, the definition of “telemedicine” states that such services can be provided through “interactive audio, video, or other telecommunications technology.”

[MONT. CODE. ANN. § 33-22-138\(6\)\(d\)\(i\).](#)

SOCIAL WORKERS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, “a license to practice as a social worker in Montana may be issued to the holder of an out-of-state social worker license at the discretion of the board, provided the applicant completes and files with the board an application for licensure and the required application fee.” The applicant must meet the following requirements:

- (a) The applicant holds a valid and unrestricted license to practice as a social worker in another state or jurisdiction, which was issued under standards equivalent to or greater than current standards in this state.



MONTANA

Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s).

(b) The applicant holds a Masters Degree in Social Work (MSW) or an equivalent Council on Social Work Education (CSWE)-approved degree, and shall supply a copy of the certified transcript sent directly from a college, university, or institution accredited by the CSWE.

(c) The applicant shall supply proof of successful completion of the Association of Social Work Boards' (ASWB) clinical examination or another board-approved licensing examination. The ASWB generalist examination is not an approved examination for purposes of obtaining licensure as a clinical social worker. Applicant scores on the examination must be forwarded directly to the board.

(d) The applicant shall submit proof of completion of 3000 hours of supervised social work experience as defined in 37-22-301, MCA. The applicant may verify the experience hours by affidavit, and need not supply a supervisor's signature upon reasonable explanation of why the supervisor's signature is unavailable to the applicant.

(e) The applicant shall submit proof of continuous practice as a social worker in another jurisdiction for the two years immediately preceding the date of application in Montana.

(f) The applicant shall submit three reference letters as provided in 37-22-301, MCA.

(g) The applicant shall answer questions about the applicant's character and fitness to practice on a form prescribed by the board, and the applicant shall provide all information required by the board in response to these questions.

[MONT. ADMIN. R. 24.219.512\(1\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

“Direct observation’ of service delivery means participation in the service delivery, observation through a two-way mirror, observation of a video or audiotape of the service delivery, or observation through an interactive video link of the service delivery.”



MONTANA

[MONT. ADMIN. R. 24.219.301\(2\).](#)

COUNSELORS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, “a license to practice as a licensed professional counselor in Montana may be issued to the holder of an out-of-state licensed professional counselor or equivalent license at the discretion of the board, provided the applicant completes and files with the board an application for licensure and the required application fee.” The applicant must meet the following requirements:

- (a) The applicant holds a valid and unrestricted license to practice as a licensed professional counselor or equivalent in another state or jurisdiction, which was issued under standards substantially equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s).
- (b) The applicant holds a graduate degree, which meets the requirements of 37-23-202, MCA, and shall supply a copy of the certified transcript sent directly from an accredited college, university, or institution, and shall complete the degree summary sheet provided by the board.
- (c) The applicant shall supply proof of successful completion of the National Counselor Examination (NCE) or another board-approved licensing examination. Applicant scores on the examination must be forwarded directly to the board.
- (d) The applicant shall submit proof of completion of 3000 hours of supervised counseling practice as defined in 37-23-202, MCA. The applicant may verify the experience hours by affidavit, and need not supply a supervisor's signature upon reasonable explanation of why the supervisor's signature is unavailable to the applicant.
- (e) The applicant shall submit proof of continuous practice as a licensed professional counselor or equivalent in another jurisdiction for the two years immediately preceding the date of application in Montana.



MONTANA

(f) The applicant shall answer questions about the applicant's character and fitness to practice on a form prescribed by the board, and the applicant shall provide all information required by the board in response to these questions.

[MONT. ADMIN. R. 24.219.612\(f\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

“Direct observation’ of service delivery means participation in the service delivery, observation through a two-way mirror, observation of a video or audiotape of the service delivery, or observation through an interactive video link of the service delivery.”

[MONT. ADMIN. R. 24.219.301\(2\).](#)

MARRIAGE/FAMILY THERAPISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, “a license to practice as a licensed marriage and family therapist in the state of Montana may be issued to the holder of an out-of-state marriage and family therapist license, provided the applicant completes, and files with the board, an application for licensure and the required application fee. The candidate must have held a valid and unrestricted license as a licensed marriage and family therapist in another state or jurisdiction, which was issued under standards equivalent to or greater than current standards in this state.”

[MONT. ADMIN. R. 24.219.712\(1\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

None identified.



MONTANA

However, the [Montana Nursing Board FAQs](#) contain the following exchange:

“[Q:] I work as a telephonic nurse. Am I required to have a Montana nursing license?
[Y:] Yes. Anytime you are providing nursing services to persons residing in Montana, either in person or via telehealth, you are required to hold an active Montana Nursing license or a multistate privilege to practice in Montana.”

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, the Montana Nursing Board may grant an APRN licensure by endorsement if an APRN is licensed in another state and meets certain requirements.

[MONT. ADMIN. R. 24.159.1418\(2\)-\(3\).](#)

COVERAGE & REIMBURSEMENT

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.

However, “all Medicaid providers using telemedicine to deliver Medicaid services must employ existing quality-of-care protocols and member confidentiality guidelines when providing telemedicine services.”

Additionally, “transmissions must be performed on dedicated secure lines or must utilize an acceptable method of encryption adequate to protect the confidentiality and integrity of the transmission. Transmissions must employ acceptable authentication and identification procedures by both the sender and receiver.”

[Montana Department of Public Health & Human Services, Montana Healthcare Programs \(Medicaid and Other Medical Programs\), General Information for Providers \(Jan. 2017\), at 5-2.](#)



MONTANA

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Psychiatrists, psychologists, licensed clinical social workers, and licensed professional counselors are considered originating site providers who can “bill using procedure code Q3014 (telemedicine originating site fee) for the use of a room and telecommunication equipment.”

“Any out of state distance providers must be licensed in the State of Montana and enrolled in Montana Medicaid in order to provide telemedicine services to Montana Medicaid members.”

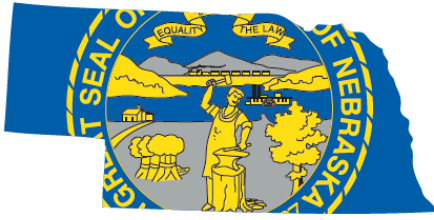
“Telemedicine reimbursement does not include:

- Consultations provided by telephone (interactive audio); or
- Facsimile machine transmissions.
- Crisis hotlines.”

“The originating and distant providers may not be within the same facility or community. The same provider may not be the pay to for both the originating and distance provider.”

“If a rendering provider’s number is required on the claim for a face-to-face visit, it is required on a telemedicine claim.”

[Montana Department of Public Health & Human Services, Montana Healthcare Programs \(Medicaid and Other Medical Programs\), General Information for Providers \(Jan. 2017\), at 5-2 to 5-4.](#)



NEBRASKA

What is the definition of “telemedicine” or “telehealth”?

The Nebraska Telehealth Act provides that “[t]elehealth consultation means any contact between a patient and a health care practitioner relating to the health care diagnosis or treatment of such patient through telehealth. . . .”

[NEB. REV. STAT. § 71-8503\(4\).](#)

“Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care practitioner for analysis and storage.”

[NEB. REV. STAT. § 71-8503\(5\).](#)

A Nebraska regulation pertaining to provision of behavioral health services defines “telehealth” as “the delivery of health-related services and information via telecommunication technologies.”

[206 NEB. ADMIN. CODE § 2.](#)

PSYCHIATRISTS

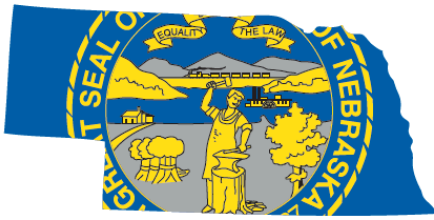
Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, a licensure provision included as part of the Nebraska Medical Practice Act states that it is not an authorized practice of medicine for “physicians who are licensed in good standing to practice medicine under the laws of another state when incidentally called into” Nebraska “or contacted via electronic or other medium for consultation with a physician licensed in this state.”

The provision further provides that “consultation means evaluating the medical data of the patient as provided by the treating physician and rendering a recommendation to such treating physician as to the method of treatment or analysis of the data. . . .”

[NEB. REV. STAT. § 38-2025\(6\).](#)



NEBRASKA

MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

In May 2015, the Nebraska Legislature extended the termination date for a children's behavioral health screening and referral program to September 6, 2017.

[Neb. L.B. 240 \(May 7, 2015\)](#) (amending [NEB. REV. STAT. § 71-8512\(6\)](#)).

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

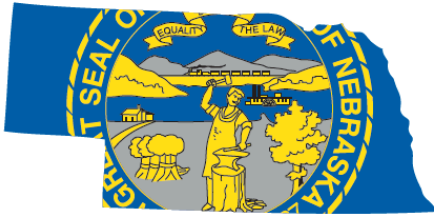
None identified.

However, a Nebraska statute pertaining to insurance coverage for telehealth and telemonitoring services provides as follows:

(2) Any insurer offering (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (b) any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, or (c) any self-funded employee benefit plan to the extent not preempted by federal law, shall provide upon request to a policyholder, certificate holder, or health care provider a description of the telehealth and telemonitoring services covered under the relevant policy, certificate, contract, or plan. (3) The description shall include:

(a) A description of services included in telehealth and telemonitoring coverage, including, but not limited to, any coverage for transmission costs;

(b) Exclusions or limitations for telehealth and telemonitoring coverage, including, but not limited to, any limitation on coverage for transmission costs;



NEBRASKA

(c) Requirements for the licensing status of health care providers providing telehealth and telemonitoring services; and

(d) Requirements for demonstrating compliance with the signed written statement requirement in section 71-8505.

[NEB. REV. STAT. § 44-312\(2\)-\(3\).](#)

Does Medicaid provide coverage for telemental/telebehavioral/telesychiatric health services? If so, what are the coverage criteria?

Effective January 1, 2017, Nebraska promulgated rules regarding telehealth for physical and behavior health services, which codified the Medicaid provisions enacted as part of the Nebraska Telehealth Act.

[471 NEB. ADMIN. CODE § 1-006 et seq.](#)



NEVADA

What is the definition of “telemedicine” or “telehealth”?

“Telehealth’ means the delivery of services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, not including standard telephone, facsimile or electronic mail.”

[NEV. REV. STAT. § 629.515\(4\)\(c\).](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

[B]efore a provider of health care who is located at a distant site may use telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient, the provider must hold a valid license or certificate to practice his or her profession in this State, including, without limitation, a special purpose license issued pursuant to NRS 630.261. The requirements of this subsection do not apply to a provider of health care who is providing services within the scope of his or her employment by or pursuant to a contract entered into with an urban Indian organization. . . .

[NEV. REV. STAT. § 629.515\(1\).](#)

To obtain a special purpose license to practice telehealth in Nevada, “the physician must:

- (a) Hold a full and unrestricted license to practice medicine in another state;
- (b) Not have had any disciplinary or other action taken against him or her by any state or other jurisdiction; and
- (c) Be certified by a specialty board of the American Board of Medical Specialties or its successor.”

[NEV. REV. STAT. § 630.261\(e\)\(2\).](#)



NEVADA

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

However, “[a]n insurer shall not . . . [r]equire an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage. . . .”

[NEV. REV. STAT. § 689A.0463\(2\)\(a\).](#)

Additionally, the state, through its administration of the Medicaid program, may not “requir[e] a person to obtain prior authorization that would not be required if a service were provided in person or through other means, establish a relationship with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to paying for services. . . .”

[NEV. REV. STAT. § 422.2721\(b\)\(1\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

[A] bona fide relationship between the patient and the person prescribing the controlled substance shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics, including, without limitation, through telehealth, within or outside this State or the United States by the person prescribing the controlled substances within the 6 months immediately preceding the date the prescription was issued.

[NEV. REV. STAT. § 639.235\(4\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

Acceptable modalities include “the use of information and audio-visual communication technology, not including standard telephone, facsimile or electronic mail.”

[NEV. REV. STAT. § 629.515\(4\)\(c\).](#)



NEVADA

PSYCHOLOGISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, “the [State of Nevada Board of Psychological Examiners] may issue a license by endorsement . . . if the applicant holds a corresponding valid and unrestricted license as a psychologist . . . in the District of Columbia or any state or territory of the United States.”

[NEV. REV. STAT. § 641.195\(1\).](#)

SOCIAL WORKERS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, “[a]n applicant for licensure as a social worker who holds, in another state, at least an equivalent license that is in good standing to engage in the practice of social work . . . may be licensed by endorsement by the [State of Nevada Board of Social Workers] to engage in the practice of social work in this State. . . .”

[NEV. ADMIN. CODE § 641B.126\(1\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, “[t]he [Nevada State Board of Nursing] may issue a license to practice as an advanced practice registered nurse to a registered nurse . . . [w]ho is licensed by endorsement . . . and holds a corresponding valid and unrestricted license to practice as



NEVADA

an advanced practice registered nurse in the District of Columbia or any other state or territory of the United States. . . .”

[NEV. REV. STAT. § 632.237\(1\).](#)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

“An advanced practice registered nurse may perform the acts described in subsection 2 [which includes the prescribing of controlled substances and other dangerous drugs] by using equipment that transfers information concerning the medical condition of a patient in this State electronically, telephonically or by fiber optics, including, without limitation, through telehealth, as defined in NRS 629.515, from within or outside this State or the United States.”

[NEV. REV. STAT. § 632.237\(4\).](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

“It is the public policy of this State to . . . [e]nsure that services provided through telehealth are covered by policies of insurance to the same extent as though provided in person or by other means.”

[NEV. REV. STAT. § 629.510\(3\)\(b\).](#)

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

“It is the public policy of this State to . . . [e]nsure that services provided through telehealth are covered by policies of insurance to the same extent as though provided in person or by other means.”

[NEV. REV. STAT. § 629.510\(3\)\(b\).](#)



NEVADA

Does Medicaid provide coverage for telemental/telebehavioral/telesiopsychiatric health services? If so, what are the coverage criteria?

The originating site is defined as the location where a patient is receiving telehealth services from a provider of health care located at a distant site (via a HIPAA-compliant telecommunications system).

- A. In order to receive coverage for a telehealth facility fee, the originating site must be an enrolled Medicaid Provider.
- B. If a patient is receiving telehealth services at an originating site without an enrolled Medicaid provider onsite, that originating site is not eligible for a facility fee from the DHCFP. Examples of this include, but are not limited to, cellular devices, home computers, kiosks and tablets.
- C. Facilities that are eligible for encounter reimbursement (e.g. Indian Health (IH) programs, Federally Qualified Health Centers (FQHCs), Rural Health Centers (RHCs)) may bill for an encounter in lieu of an originating site facility fee, if the distant site is for ancillary services (i.e. consult with specialist). If, for example, the originating site and distant site are two different encounter sites, then the originating encounter site must bill the telehealth originating HCPCS code and the distant encounter site may bill the encounter code.

[Nevada Department of Health & Human Services, Division of Health Care Financing and Policy, Medicaid Services Manual, § 3403.1 \(Sept. 2016\).](#)

The following coverage and limitations pertain to telehealth services:

- A. The medical examination of the patient is under the control of the health care professional at the distant site.
- B. While the distant physician or provider may request a telepresenter, a telepresenter is not required as a condition of reimbursement.
- C. Licensed Clinical Psychologist (LCP), Licensed Clinical Social Worker (LCSW) and clinical staff employed and determined by a state mental health agency to meet established class specification qualifications of a Mental Health Counselor, Clinical Social Worker



NEVADA

or Psychological Assistant may bill and receive reimbursement for psychotherapy (via a HIPAA-compliant telecommunication system), but may not seek reimbursement for medical evaluation and management services. Refer to MSM Chapter 400, Mental Health and Alcohol and Substance Abuse Services, for medical coverage requirements.

D. End Stage Renal Disease (ESRD)

1. ESRD visits must include at least one in-person visit to examine the vascular access site by a provider; however, an interactive audio/visual telecommunication system may be used for providing additional visits.
2. Medical records must indicate that at least one of the visits was furnished in-person by a provider. Refer to MSM Chapter 600 Physician Services, for medical coverage requirements.

[Nevada Department of Health & Human Services, Division of Health Care Financing and Policy, Medicaid Services Manual, § 3403.5 \(Sept. 2016\).](#)

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

Updated citation: [NEV. REV. STAT. § 453.043.](#)



NEW HAMPSHIRE

What is the definition of “telemedicine” or “telehealth”?

“Telemedicine’ means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. ‘Telemedicine’ shall not include the use of audio-only telephone or facsimile.”

[N.H. REV. STAT. ANN. § 329:1-d\(I\).](#)

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

“It shall be unlawful for any person to prescribe by means of telemedicine a controlled drug classified in schedule II through IV.”

[N.H. REV. STAT. ANN. § 329:1-d\(III\).](#)

- (a) The prescribing of a non-opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a), who are treating a patient with whom the prescriber has an in-person practitioner-patient relationship, for purposes of monitoring or follow-up care, or who are treating patients at a state designated community mental health center pursuant to RSA 135-C or at a Substance Abuse and Mental Health Services Administration (SAMHSA)-certified state opioid treatment program, and shall require an initial in-person exam by a practitioner licensed to prescribe the drug. Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and drug, but not less than annually.
- (b) The prescribing of an opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a), who are treating patients at a SAMHSA-certified state opioid treatment program. Such prescription authority shall require an initial in-person exam by a practitioner licensed to prescribe the drug and subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and opioid, but not less than annually.



NEW HAMPSHIRE

[N.H. REV. STAT. ANN. § 329:1-d\(IV\).](#)

A physician providing services by means of telemedicine directly to a patient shall:

- (a) Use the same standard of care as used in an in-person encounter;
- (b) Maintain a medical record; and
- (c) Subject to the patient's consent, forward the medical record to the patient's primary care or treating provider, if appropriate.

[N.H. REV. STAT. ANN. § 329:1-d\(V\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“An out-of-state physician providing services by means of telemedicine shall be deemed to be in the practice of medicine and shall be required to be licensed under this chapter. This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II.”

[N.H. REV. STAT. ANN. § 329:1-d\(II\).](#)

This chapter (regarding Occupations and Professions) does not apply:

“To legally qualified physicians in other states or countries when called in consultation by an individual licensed to practice in the state who bears the responsibility for the patient's diagnosis and treatment. However, regular or frequent consultation by such an unlicensed person, as determined by the licensing board, shall constitute the practice of medicine without a license”; or

“To any physician residing on the border of a neighboring state and duly authorized under the laws thereof to practice medicine therein, whose practice extends into this state, and who does not open an office or appoint a place to meet patients or to receive calls within this state”; or

“To regular or family physicians of persons not residents of this state, when called to attend them during a temporary stay in this state, provided such family physicians are legally registered in some state.”

[N.H. REV. STAT. ANN. § 329:21\(II\)-\(IV\).](#)



NEW HAMPSHIRE

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“Physician-patient relationship’ means a medical connection between a licensed physician and a patient that includes an in-person or face-to-face 2-way real-time interactive communication exam, a history, a diagnosis, a treatment plan appropriate for the licensee’s medical specialty, and documentation of all prescription drugs including name and dosage. . . .”

[N.H. REV. STAT. ANN. § 329:1-c.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

“Telemedicine’ means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. ‘Telemedicine’ shall not include the use of audio-only telephone or facsimile.”

[N.H. REV. STAT. ANN. § 329:1-d\(l\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

“An APRN providing services by means of telemedicine directly to a patient shall:

- (1) Use the same standard of care as used in an in-person encounter;
- (2) Maintain a medical record; and
- (3) Subject to the patient’s consent, forward the medical record to the patient’s primary care or treating provider, if appropriate.”

[N.H. REV. STAT. ANN. § 326-B:2\(XII\)\(e\).](#)



NEW HAMPSHIRE

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“An out-of-state APRN providing services by means of telemedicine shall be deemed to be in the practice of medicine and shall be required to be licensed under this chapter.”

[N.H. REV. STAT. ANN. § 326-B:2\(XII\)\(b\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Under the Nurse Practice Act, “[a]dvanced practice registered nurse-patient relationship means a medical connection between a licensed APRN and a patient that includes an in-person or face-to-face 2-way real-time interactive communication exam, a history, a diagnosis, a treatment plan appropriate for the licensee’s medical specialty, and documentation of all prescription drugs including name and dosage. . . .”

[N.H. REV. STAT. ANN. § 326-B:2\(I-a\).](#)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

“A licensee may prescribe for a patient whom the licensee does not have an APRN-patient relationship under the following circumstances: writing admission orders for a newly hospitalized patient; for a patient of another licensee for whom the prescriber is taking call; for a patient examined by another licensed practitioner; or for medication on a short-term basis for a new patient prior to the patient’s first appointment.”

[N.H. REV. STAT. ANN. § 326-B:2\(I-a\).](#)

“It shall be unlawful for any person to prescribe by means of telemedicine a controlled drug classified in schedule II through IV.”

[N.H. REV. STAT. ANN. § 326-B:2\(XII\)\(c\).](#)

- (1) The prescribing of a non-opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a), who are treating a patient with whom the prescriber has an in-person practitioner-patient relationship, for purposes of monitoring or follow-up care, or who are treating patients at a state



NEW HAMPSHIRE

designated community mental health center pursuant to RSA 135-C or at a Substance Abuse and Mental Health Services Administration (SAMHSA)-certified state opioid treatment program, and shall require an initial in-person exam by a practitioner licensed to prescribe the drug. Subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition and drug, but not less than annually.

- (2) The prescribing of an opioid controlled drug classified in schedule II through IV by means of telemedicine shall be limited to prescribers as defined in RSA 329:1-d, I and RSA 326-B:2, XII(a), who are treating patients at a SAMHSA-certified state opioid treatment program. Such prescription authority shall require an initial in-person exam by a practitioner licensed to prescribe the drug and subsequent in-person exams shall be by a practitioner licensed to prescribe the drug at intervals appropriate for the patient, medical condition, and opioid, but not less than annually.

[N.H. REV. STAT. ANN. § 326-B:2\(XII\)\(d\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

“Telemedicine’ means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. Telemedicine shall not include the use of audio-only telephone or facsimile.”

[N.H. REV. STAT. ANN. § 326-B:2\(XII\)\(a\).](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

However, both a physician and an APRN “providing services by means of telemedicine directly to a patient shall . . . [s]ubject to the patient’s consent, forward the medical record to the patient’s primary care or treating provider, if appropriate.”



NEW HAMPSHIRE

[N.H. REV. STAT. ANN. § 329:1-d\(V\)\(c\).](#)
[N.H. REV. STAT. ANN. § 326-B:2\(XII\)\(e\)\(3\).](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telesiastic health services? If so, what are the coverage criteria?

“The use of the term “telemedicine” shall comply with the Centers for Medicare and Medicaid Services requirements governing the aforementioned telehealth services.”

[N.H. REV. STAT. ANN. § 167:4-d\(I\).](#)

“Coverage under this section shall include the use of telehealth or telemedicine for Medicaid-covered services provided within the scope of practice of a physician or non-physician practitioner as a method of delivery of medical care:

- (1) Which is an appropriate application of telehealth services provided by medical specialists only, excluding primary care, as determined by the department based on the Centers for Medicare and Medicaid Services regulations; and
- (2) By which an individual shall receive medical services from a physician or non-physician practitioner who is an enrolled Medicaid provider without in-person contact with that provider.”

“Nothing in this section shall be construed to prohibit the Medicaid program from providing coverage for only those services that are medically necessary and subject to all other terms and conditions of the coverage.”

[N.H. REV. STAT. ANN. § 167:4-d\(II\).](#)



NEW JERSEY

What is the definition of “telemedicine” or “telehealth”?

“Telehealth’ means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017.”

“Telemedicine’ means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care provider who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening health care provider, and in accordance with the provisions of P.L.2017.”

[N.J. STAT. ANN. § 45:1-61.](#)

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

“A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient’s medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.”

[N.J. STAT. ANN. § 45:1-62\(c\)\(4\).](#)

“Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care.”

[N.J. STAT. ANN. § 45:1-62\(d\)\(1\).](#)



NEW JERSEY

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey. (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided.”

[N.J. STAT. ANN. § 45:1-62\(b\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Any health care provider who engages in telemedicine or telehealth shall ensure that a proper provider-patient relationship is established. The establishment of a proper provider-patient relationship shall include, but shall not be limited to:

- (1) properly identifying the patient using, at a minimum, the patient’s name, date of birth, phone number, and address. When properly identifying the patient, the provider may additionally use the patient’s assigned identification number, social security number, photo, health insurance policy number, or other appropriate patient identifier associated directly with the patient;
- (2) disclosing and validating the provider’s identity and credentials, such as the provider’s license, title, and, if applicable, specialty and board certifications;
- (3) prior to initiating contact with a patient in an initial encounter for the purpose of providing services to the patient using telemedicine or telehealth, reviewing the patient’s medical history and any available medical records; and
- (4) prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, determining whether the provider will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in person. The provider shall make this determination prior to each unique patient encounter.

NEW JERSEY[N.J. STAT. ANN. § 45:1-63\(a\).](#)

Telemedicine or telehealth may be practiced without a proper provider-patient relationship, as defined in subsection a. of this section, in the following circumstances:

- (1) during informal consultations performed by a health care provider outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
- (2) during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a properly licensed or certified health care provider in this State;
- (3) when a health care provider furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or
- (4) when a substitute health care provider, who is acting on behalf of an absent health care provider in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent health care provider has designated the substitute provider as an on-call provider or cross-coverage service provider.

[N.J. STAT. ANN. § 45:1-63\(b\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider-patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online questionnaire.

[N.J. STAT. ANN. § 45:1-62\(d\)\(2\).](#)

NEW JERSEY

The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian.

[N.J. STAT. ANN. § 45:1-62\(e\).](#)

What are the acceptable (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

“Telehealth’ means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017.”

[N.J. STAT. ANN. § 45:1-61.](#)

“Telemedicine services shall be provided using interactive, real-time, two-way communication technologies.”

[N.J. STAT. ANN. § 45:1-62\(c\)\(1\).](#)

“Telemedicine’ does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.”

[N.J. STAT. ANN. § 45:1-61.](#)

A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the



NEW JERSEY

health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient's medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person.

[N.J. STAT. ANN. § 45:1-62\(c\)\(2\).](#)

PSYCHOLOGISTS

What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

A "health care provider" means an individual who provides a health care service to a patient, and includes, but is not limited to . . . a psychologist."

[N.J. STAT. ANN. § 45:1-61.](#)

A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient's medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.

[N.J. STAT. ANN. § 45:1-62\(c\)\(4\).](#)

"Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care."

[N.J. STAT. ANN. § 45:1-62\(d\)\(1\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?



NEW JERSEY

Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey. (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided.

[N.J. STAT. ANN. § 45:1-62\(b\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Any health care provider who engages in telemedicine or telehealth shall ensure that a proper provider-patient relationship is established. The establishment of a proper provider-patient relationship shall include, but shall not be limited to:

(1) properly identifying the patient using, at a minimum, the patient's name, date of birth, phone number, and address. When properly identifying the patient, the provider may additionally use the patient's assigned identification number, social security number, photo, health insurance policy number, or other appropriate patient identifier associated directly with the patient;

(2) disclosing and validating the provider's identity and credentials, such as the provider's license, title, and, if applicable, specialty and board certifications;

(3) prior to initiating contact with a patient in an initial encounter for the purpose of providing services to the patient using telemedicine or telehealth, reviewing the patient's medical history and any available medical records; and

(4) prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, determining whether the provider will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in person. The provider shall make this determination prior to each unique patient encounter.

[N.J. STAT. ANN. § 45:1-63\(a\).](#)

NEW JERSEY



Telemedicine or telehealth may be practiced without a proper provider-patient relationship, as defined in subsection a. of this section, in the following circumstances:

- (1) during informal consultations performed by a health care provider outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
- (2) during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a properly licensed or certified health care provider in this State;
- (3) when a health care provider furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or
- (4) when a substitute health care provider, who is acting on behalf of an absent health care provider in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent health care provider has designated the substitute provider as an on-call provider or cross-coverage service provider.

[N.J. STAT. ANN. § 45:1-63\(b\).](#)

Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

New Jersey's telehealth law, enacted in 2017, does not specifically state that a psychologist has prescribing authority, but the provision of the law that discusses limitations on prescribing via telemedicine/telehealth applies to "health care providers." A separate provision within the new telehealth law includes psychologists within the definition of "health care provider."

The new telehealth law also states the following:

Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider-patient



NEW JERSEY

relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online questionnaire.

[N.J. STAT. ANN. § 45:1-62\(d\)\(2\).](#)

The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian.

[N.J. STAT. ANN. § 45:1-62\(e\).](#)

What are the acceptable (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

“Telehealth’ means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017.”

[N.J. STAT. ANN. § 45:1-61.](#)

“Telemedicine services shall be provided using interactive, real-time, two-way communication technologies.”

[N.J. STAT. ANN. § 45:1-62\(c\)\(1\).](#)

“Telemedicine’ does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.”

[N.J. STAT. ANN. § 45:1-61.](#)



NEW JERSEY

A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient's medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person.

[N.J. STAT. ANN. § 45:1-62\(c\)\(2\).](#)

SOCIAL WORKERS

What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

A "health care provider" means an individual who provides a health care service to a patient, and includes, but is not limited to . . . a clinical social worker."

[N.J. STAT. ANN. § 45:1-61.](#)

A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient's medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.

[N.J. STAT. ANN. § 45:1-62\(c\)\(4\).](#)

"Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care."

[N.J. STAT. ANN. § 45:1-62\(d\)\(1\).](#)



NEW JERSEY

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey. (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided.

[N.J. STAT. ANN. § 45:1-62\(b\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Any health care provider who engages in telemedicine or telehealth shall ensure that a proper provider-patient relationship is established. The establishment of a proper provider-patient relationship shall include, but shall not be limited to:

- (1) properly identifying the patient using, at a minimum, the patient's name, date of birth, phone number, and address. When properly identifying the patient, the provider may additionally use the patient's assigned identification number, social security number, photo, health insurance policy number, or other appropriate patient identifier associated directly with the patient;
- (2) disclosing and validating the provider's identity and credentials, such as the provider's license, title, and, if applicable, specialty and board certifications;
- (3) prior to initiating contact with a patient in an initial encounter for the purpose of providing services to the patient using telemedicine or telehealth, reviewing the patient's medical history and any available medical records; and
- (4) prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, determining whether the provider will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in person. The provider shall make this determination prior to each unique patient encounter.

NEW JERSEY[N.J. STAT. ANN. § 45:1-63\(a\).](#)

Telemedicine or telehealth may be practiced without a proper provider-patient relationship, as defined in subsection a. of this section, in the following circumstances:

- (1) during informal consultations performed by a health care provider outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;
- (2) during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a properly licensed or certified health care provider in this State;
- (3) when a health care provider furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or
- (4) when a substitute health care provider, who is acting on behalf of an absent health care provider in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent health care provider has designated the substitute provider as an on-call provider or cross-coverage service provider.

[N.J. STAT. ANN. § 45:1-63\(b\).](#)

Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?

New Jersey's telehealth law, enacted in 2017, does not specifically state that a clinical social worker has prescribing authority, but the provision of the law that discusses limitations on prescribing via telemedicine/telehealth applies to "health care providers." A separate provision within the new telehealth law includes clinical social workers within the definition of "health care provider."

The new telehealth law also states the following:

Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a

NEW JERSEY

prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider- patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online questionnaire.

[N.J. STAT. ANN. § 45:1-62\(d\)\(2\).](#)

The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian.

[N.J. STAT. ANN. § 45:1-62\(e\).](#)

What are the acceptable (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

“Telehealth’ means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017.”

[N.J. STAT. ANN. § 45:1-61.](#)

“Telemedicine services shall be provided using interactive, real-time, two-way communication technologies.”

[N.J. STAT. ANN. § 45:1-62\(c\)\(1\).](#)



NEW JERSEY

“Telemedicine’ does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.”

[N.J. STAT. ANN. § 45:1-61.](#)

A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient’s medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person.

[N.J. STAT. ANN. § 45:1-62\(c\)\(2\).](#)

COUNSELORS

What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

A “health care provider’ means an individual who provides a health care service to a patient, and includes, but is not limited to . . . a professional counselor.”

[N.J. STAT. ANN. § 45:1-61.](#)

A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient’s medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.

[N.J. STAT. ANN. § 45:1-62\(c\)\(4\).](#)

“Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to

NEW JERSEY

in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care.”

[N.J. STAT. ANN. § 45:1-62\(d\)\(1\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey. (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided.

[N.J. STAT. ANN. § 45:1-62\(b\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Any health care provider who engages in telemedicine or telehealth shall ensure that a proper provider-patient relationship is established. The establishment of a proper provider-patient relationship shall include, but shall not be limited to:

- (1) properly identifying the patient using, at a minimum, the patient’s name, date of birth, phone number, and address. When properly identifying the patient, the provider may additionally use the patient’s assigned identification number, social security number, photo, health insurance policy number, or other appropriate patient identifier associated directly with the patient;
- (2) disclosing and validating the provider’s identity and credentials, such as the provider’s license, title, and, if applicable, specialty and board certifications;
- (3) prior to initiating contact with a patient in an initial encounter for the purpose of providing services to the patient using telemedicine or telehealth, reviewing the patient’s medical history and any available medical records; and

NEW JERSEY

(4) prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, determining whether the provider will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in person. The provider shall make this determination prior to each unique patient encounter.

[N.J. STAT. ANN. § 45:1-63\(a\).](#)

Telemedicine or telehealth may be practiced without a proper provider-patient relationship, as defined in subsection a. of this section, in the following circumstances:

(1) during informal consultations performed by a health care provider outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;

(2) during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a properly licensed or certified health care provider in this State;

(3) when a health care provider furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or

(4) when a substitute health care provider, who is acting on behalf of an absent health care provider in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent health care provider has designated the substitute provider as an on-call provider or cross-coverage service provider.

[N.J. STAT. ANN. § 45:1-63\(b\).](#)

Does a counselor have prescribing authority? If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?

New Jersey's telehealth law, enacted in 2017, does not specifically state that a professional counselor has prescribing authority, but the provision of the law that discusses limitations on prescribing via telemedicine/telehealth applies to "health care providers." A separate provision within the new telehealth law includes professional counselors within the definition of "health care provider."

NEW JERSEY



The new telehealth law also states the following:

Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider-patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online questionnaire.

[N.J. STAT. ANN. § 45:1-62\(d\)\(2\).](#)

The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian.

[N.J. STAT. ANN. § 45:1-62\(e\).](#)

What are the acceptable (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

"'Telehealth' means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017."

[N.J. STAT. ANN. § 45:1-61.](#)



NEW JERSEY

“Telemedicine services shall be provided using interactive, real-time, two-way communication technologies.”

[N.J. STAT. ANN. § 45:1-62\(c\)\(1\).](#)

“Telemedicine’ does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.”

[N.J. STAT. ANN. § 45:1-61.](#)

A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient’s medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person.

[N.J. STAT. ANN. § 45:1-62\(c\)\(2\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

A “health care provider’ means an individual who provides a health care service to a patient, and includes, but is not limited to . . . a nurse.”

[N.J. STAT. ANN. § 45:1-61.](#)

A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient’s medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.

NEW JERSEY[N.J. STAT. ANN. § 45:1-62\(c\)\(4\).](#)

“Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care.”

[N.J. STAT. ANN. § 45:1-62\(d\)\(1\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey. (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided.

[N.J. STAT. ANN. § 45:1-62\(b\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Any health care provider who engages in telemedicine or telehealth shall ensure that a proper provider-patient relationship is established. The establishment of a proper provider-patient relationship shall include, but shall not be limited to:

(1) properly identifying the patient using, at a minimum, the patient’s name, date of birth, phone number, and address. When properly identifying the patient, the provider may additionally use the patient’s assigned identification number, social security number, photo, health insurance policy number, or other appropriate patient identifier associated directly with the patient;

(2) disclosing and validating the provider’s identity and credentials, such as the provider’s license, title, and, if applicable, specialty and board certifications;

NEW JERSEY

(3) prior to initiating contact with a patient in an initial encounter for the purpose of providing services to the patient using telemedicine or telehealth, reviewing the patient's medical history and any available medical records; and

(4) prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, determining whether the provider will be able to provide the same standard of care using telemedicine or telehealth as would be

provided if the services were provided in person. The provider shall make this determination prior to each unique patient encounter.

[N.J. STAT. ANN. § 45:1-63\(a\).](#)

Telemedicine or telehealth may be practiced without a proper provider-patient relationship, as defined in subsection a. of this section, in the following circumstances:

(1) during informal consultations performed by a health care provider outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;

(2) during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a properly licensed or certified health care provider in this State;

(3) when a health care provider furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or

(4) when a substitute health care provider, who is acting on behalf of an absent health care provider in the same specialty, provides health care services on an on-call or cross-coverage basis, provided that the absent health care provider has designated the substitute provider as an on-call provider or cross-coverage service provider.

[N.J. STAT. ANN. § 45:1-63\(b\).](#)



NEW JERSEY

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

“An advanced practice nurse may prescribe or order medications and devices and shall do so in conformity with the provisions of this subchapter, N.J.S.A. 45:11-45 et seq., and written protocols for the prescription of medications and devices jointly developed by the advanced practice nurse and the collaborating physician in accordance with the standards of N.J.S.A. 45:11-51 and N.J.A.C. 13:37-6.3.”

[N.J. ADMIN. CODE § 13:37-7.9\(a\).](#)

“An advanced practice nurse may prescribe or order treatments, including referrals, and shall do so in conformity with the provisions of this subchapter and N.J.S.A. 45:11-45 et seq.”

[N.J. ADMIN. CODE § 13:37-7.9\(b\).](#)

Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient’s treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider- patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online questionnaire.

[N.J. STAT. ANN. § 45:1-62\(d\)\(2\).](#)

The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient’s parent or guardian.



NEW JERSEY

[N.J. STAT. ANN. § 45:1-62\(e\).](#)

What are the acceptable (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

The definition of “telehealth” allows for the use of communications technologies, including telephones, remote patient monitoring devices, or other electronic means.

[N.J. STAT. ANN. § 45:1-61.](#)

“Telemedicine services shall be provided using interactive, real-time, two-way communication technologies.”

[N.J. STAT. ANN. § 45:1-62\(c\)\(1\).](#)

“Telemedicine’ does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.”

[N.J. STAT. ANN. § 45:1-61.](#)

A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient’s medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person.

[N.J. STAT. ANN. § 45:1-62\(c\)\(2\).](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care to telemental/telepsychiatric health services?

Following the provision of services using telemedicine or telehealth, the patient’s medical information shall be made available to the patient upon the patient’s

NEW JERSEY

request, and, with the patient's affirmative consent, forwarded directly to the patient's primary care provider or health care provider of record, or, upon request by the patient, to other health care providers. For patients without a primary care provider or other health care provider of record, the health care provider engaging in telemedicine or telehealth may advise the patient to contact a primary care provider, and, upon request by the patient, assist the patient with locating a primary care provider or other in-person medical assistance that, to the extent possible, is located within reasonable proximity to the patient. The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up care where necessary, including making appropriate referrals for emergency or complimentary care, if needed. Consent may be oral, written, or digital in nature, provided that the chosen method of consent is deemed appropriate under the standard of care.

[N.J. STAT. ANN. § 45:1-62\(c\)\(5\).](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

A carrier that offers a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

[N.J. STAT. ANN. § 26:2S-29\(a\).](#)

"A carrier may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation."



NEW JERSEY

[N.J. STAT. ANN. § 26:2S-29\(b\).](#)

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

New Jersey's telehealth law, enacted in 2017, contains language regarding the state Medicaid and NJ FamilyCare programs' coverage of and reimbursement for telemedicine/telehealth services:

The State Medicaid and NJ FamilyCare programs shall provide coverage and payment for health care services delivered to a benefits recipient through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

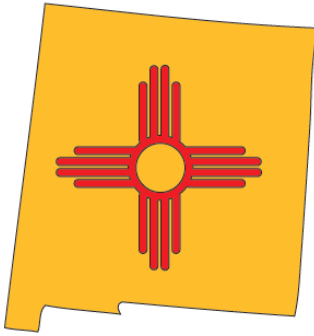
[N.J. STAT. ANN. § 30:4D-6k\(a\).](#)

"The State Medicaid and NJ FamilyCare programs may limit coverage to services that are delivered by participating health care providers, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation."

[N.J. STAT. ANN. § 30:4D-6k\(b\).](#)

"Nothing in this section shall be construed to . . . allow the State Medicaid or NJ FamilyCare programs to require a benefits recipient to use telemedicine or telehealth in lieu of obtaining an in-person service from a participating health care provider."

[N.J. STAT. ANN. § 30:4D-6k\(c\)\(2\).](#)



NEW MEXICO

What is the definition of “telemedicine” or “telehealth”?

With respect to coverage of telemedicine services, “telemedicine” is defined as “the use of interactive simultaneous audio and video or store-and-forward technology using information and telecommunications technologies by a health care provider to deliver health care services at a site other than the site where the patient is located, including the use of electronic media for consultation relating to the health care diagnosis or treatment of the patient in real time or through the use of store-and-forward technology.”

[N.M. STAT. § 59A-22-49.3\(H\).](#)

Section 61-6-6 of New Mexico’s Medical Practice Act permits the issuance of a “telemedicine license” to “allow the practice of medicine across state lines.” That section defines “the practice of medicine across state lines” as:

1. “the rendering of a written or otherwise documented medical opinion concerning diagnosis or treatment of a patient within New Mexico by a physician located outside the state as a result of transmission of individual patient data by electronic telephonic or other means from within New Mexico to the physician or the physician’s agent; or
2. the rendering of treatment to a patient within New Mexico by a physician located outside the state as a result of transmission of individual patient data by electronic, telephonic or other means from within New Mexico to the physician or the physician’s agent.”

[N.M. STAT. §§ 61-6-6\(K\), 61-6-11.1.](#)

The New Mexico Telehealth Commission Act also defines “telehealth” as “the use of electronic information, imaging and communication technologies, including interactive audio, video and data communications as well as store-and-forward technologies, to provide and support health care delivery, diagnosis, consultation, treatment, transfer of medical data and education.”

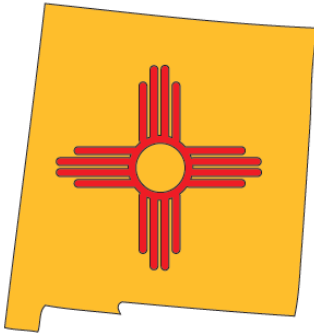
[N.M. STAT. § 24-1G-3.](#)

PSYCHIATRISTS

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes. The “practice of medicine” includes “offering or undertaking to administer, dispense or prescribe a drug or medicine for the use of another person. . . .”

[N.M. STAT. § 61-6-6\(J\)\(2\).](#)



NEW MEXICO

New Mexico considers “prescribing, dispensing or administering drugs or medical supplies to a patient when there is no established physician-patient relationship, including prescribing over the internet or via other electronic means that is based solely on an on-line questionnaire” unprofessional or dishonorable conduct, except via the following telehealth conditions:

“[T]he provision of consultation, recommendation, or treatment during a face-to-face telehealth encounter online, using standard videoconferencing technology, where a medical history and informed consent are obtained and a medical record generated by the practitioner, and a physical examination is:

(a) recorded as appropriate by the practitioner, or a practitioner such as a physician, a physician or anesthesiologist assistant, or an advanced practice nurse, with the results communicated to the telehealth practitioner; or

(b) waived when a physical examination would not normally be part of a typical physical face-to-face encounter with the patient for the specific services being provided.”

[N.M. CODE R. § 16.10.8.8\(L\)\(6\).](#)

PSYCHOLOGISTS

Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

Yes. A “conditional prescribing psychologist” is defined as “a licensed psychologist who holds a valid conditional prescription certificate.”

A “conditional prescription certificate” means “a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication under the supervision of a licensed physician pursuant to the act.”

[N.M. CODE R. §§ 16.22.1.7\(A\)\(14\)–\(15\).](#)

A conditional prescribing or prescribing psychologist cannot “prescribe medications for patients with the following conditions:

1. patients with a serious co-morbid disease of the central nervous system;
2. patients with cardiac arrhythmia;
3. patients who are being pharmacologically treated for coronary vascular disease;
4. patients with blood dyscrasia;
5. patients who are hospitalized for an acute medical condition; or



NEW MEXICO

6. women who are pregnant or breast feeding.”

A conditional prescribing or prescribing psychologist cannot prescribe a drug, substance, or controlled substance that is not contained in the formulary described in regulations.

[N.M. CODE R. § 16.22.21.8\(B\).](#)

No telehealth-specific conditions/limits are identified.

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?

New Mexico prohibits the disclosure of confidential information in its Mental Health Article: “Except as otherwise provided in the code, no person shall, without the authorization of the client, disclose or transmit any confidential information from which a person well acquainted with the client might recognize the client as the described person, or any code, number or other means that can be used to match the client with confidential information regarding the client.”

Authorization requirements are also listed as follows:

“No authorization given for the transmission or disclosure of confidential information shall be effective unless it:

- (1) is in writing and signed; and
- (2) contains a statement of the client's right to examine and copy the information to be disclosed, the name or title of the proposed recipient of the information and a description of the use that may be made of the information.”

[N.M. STAT. § 43-1-19.](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

New Mexico also covers telemedicine for Alternative Benefit Plan recipients under the *New Mexico Managed Care Policy Manual*.



NEW MEXICO

New Mexico Human Services Department, Medical Assistance Division, [Managed Care Policy Manual](#) (revised through Mar. 1, 2017), at 258.

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

The definition, which remains unchanged, is now available (by subscription) through an updated link: [N.M. STAT. § 26-1-2\(D\)](#).



NEW YORK

What is the definition of “telemedicine” or “telehealth”?

“Telemedicine’ means the use of synchronous, two-way electronic audio visual communications to deliver clinical health care services, which shall include the assessment, diagnosis, and treatment of a patient, while such patient is at the originating site and a telehealth provider is at a distant site.”

[N.Y. PUB. HEALTH LAW § 2999-cc\(5\).](#)

New York regulations related to the credentialing and privileging by Article 28 hospitals of health care practitioners providing telemedicine services state, “Telemedicine’ means the delivery of clinical health care services by means of real time two-way electronic audio-visual communications which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care while such patient is at the originating site and the health care provider is at a distant site.”

[N.Y. PUB. HEALTH LAW § 2805-u\(1\)\(d\).](#)

In a March 2015 New York State Department of Health *Medicaid Update*, the term “telemedicine” was defined as “involv[ing] the use of interactive audio and video telecommunications technology to support ‘real time’ interactive patient care and consultations between healthcare practitioners and patients at a distance. It is viewed as a cost-effective alternative to the more traditional face-to-face way of providing medical care between providers and patients. The medical specialist providing the consultation or service is located at a distant site or ‘hub.’ The referring healthcare practitioner and patient are located at the originating site or ‘spoke.’”

[New York State Department of Health, DOH Medicaid Update v.31 n.3 \(Mar. 2015\).](#)

Note: This definition is the same or substantially similar to the definition that the Department of Health included in previous Medicaid Updates discussing coverage of telemedicine services in New York. See *Medicaid Update v.27 n.13 (Sept. 2011)*, *Medicaid Update v.26 n.9 (July 2010)*, and *Medicaid Update v.21 n.9 (Sept. 2006)*.

New York Insurance Law defines “telehealth” as “the use of electronic information and communication technologies by a health care provider to deliver health care services to an insured individual while such individual is located at a site that is different from the site where the health care provider is located.”

[N.Y. INS. LAW §§ 3217-h\(b\) and 4306-g\(b\).](#)



NEW YORK

What is the definition of “telemental,” “telemental,” and “telepsychiatry”?

Effective February 11, 2015, the New York State Office of Mental Health (“OMH”) established the basic standards and parameters for the provision of “telepsychiatry services” in OMH-licensed clinic programs. Adopted as a new provision within 14 N.Y. COMP. CODES R. & REGS. Part 599, regarding “Clinic Treatment Services,” the new regulation allowed telepsychiatry to be utilized for assessment and treatment services provided by physicians or psychiatric nurse practitioners, from a site distant from the location of a recipient, where both the patient and the physician or nurse practitioner were physically located at clinic sites licensed by OMH. More recently, and effective August 31, 2016, OMH repealed 14 N.Y. COMP. CODES R. & REGS. § 599.17 and adopted a new [Part 596](#) to Title 14 (Department of Mental Hygiene), ch. XIII (Office of Mental Health), to expand the use of telepsychiatry beyond the clinical setting to include OMH-licensed programs, with some exceptions. Under the 2016 regulations, and when authorized by OMH, telepsychiatry services may be utilized for assessment and treatment services provided by physicians or psychiatric nurse practitioners from a site distant from the location of a recipient, when the recipient is physically located at an OMH-licensed program site.

“Telepsychiatry is defined as the use of two-way real-time interactive audio and video equipment to provide and support mental health services at a distance. Such services do not include a telephone conversation, electronic mail message or facsimile transmission between a provider and a recipient, or a consultation between two professional or clinical staff.”

[14 N.Y. COMP. CODES R. § 596.1\(a\).](#)

“Telepsychiatry means the use of two-way real-time interactive audio and video to provide and support clinical psychiatric care at a distance. Such services do not include a telephone conversation, electronic mail message, or facsimile transmission between a provider and a patient or a consultation between two physicians or nurse practitioners, or other staff, although these activities may support telepsychiatry services.”

[14 N.Y. COMP. CODES R. § 596.4\(k\).](#)

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?



NEW YORK

The OMH rule regulating telepsychiatry places restrictions on the scope of practice for psychiatrists providing telepsychiatry services.

“Telepsychiatry services may be authorized by the Office for assessment and treatment services provided by physicians . . . from a site distant from the location of a patient, where the patient is physically located at an originating/spoke site licensed by the Office, and the physician . . . is physically located at a distant/hub site that participates in the New York State Medicaid program.”

[14 N.Y. COMP. CODES R. § 596.5\(a\).](#)

“A provider of services must obtain prior written approval of the Office before utilizing telepsychiatry services.”

[14 N.Y. COMP. CODES R. § 596.5\(b\).](#)

“Approval shall be based on receipt by the Office of the following:

- (1) Sufficient written demonstration that telepsychiatry will be used for assessment and treatment services consistent with the provisions of this Part, and that the services are being requested because they are necessary to improve the quality of care of individuals receiving services;
- (2) Submission of a written plan to provide telepsychiatry services that satisfies the provisions of this Part and includes:
 - (i) confidentiality protections for persons who receive telepsychiatry services, including measures to ensure the security of the electronic transmission;
 - (ii) informed consent of persons who receive telepsychiatric services;
 - (iii) procedures for handling emergencies with persons who receive telepsychiatric services; and
 - (iv) contingency procedures to use when the delivery of telepsychiatric service is interrupted, or when the transmission of the two-way interactions is deemed inadequate for the purpose of service provision.”

[14 N.Y. COMP. CODES R. § 596.5\(c\).](#)

“The distant/ hub site practitioner must:



NEW YORK

- (i) possess a current, valid license to practice in New York State;
- (ii) directly render the telepsychiatry service;
- (iii) abide by the laws and regulations of the State of New York including the New York State Mental Hygiene Law and any other law, regulation, or policy that governs the assessment or treatment service being provided;
- (iv) exercise the same standard of care as in-house delivered services; and
- (v) deliver services from a site that is enrolled in the New York State Medicaid program.”

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(1\).](#)

“The distant/hub provider and originating/spoke site provider of service must not be terminated, suspended, or barred from the Medicaid or Medicare program.”

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(2\).](#)

“If the originating/spoke site is a hospital, the practitioner at the distant/hub site must be credentialed and privileged by such hospital, consistent with applicable accreditation standards.”

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(3\).](#)

“Telepsychiatry services must be rendered using an interactive telecommunication system.”

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(4\).](#)

“A notation must be made in the clinical record that indicates that the service was provided via telepsychiatry and which specifies the time the service was started and the time it ended.”

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(5\).](#)

“Telepsychiatry services provided to patients under age 18 may include staff that are qualified mental health professionals, as such term is defined in this Part, or other appropriate staff of the originating/spoke site in the room with the patient. Such determinations shall be clinically based, consistent with clinical guidelines issued by the Office.”



NEW YORK

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(6\).](#)

“[T]elepsychiatry services shall be considered face-to-face contacts when the service is delivered in accordance with the provisions of the plan approved by the Office pursuant to Section 596.5 of this Part.”

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(7\).](#)

“Culturally competent interpreter services shall be provided in the patient’s preferred language when the patient and distant/hub practitioners do not speak the same language.”

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(8\).](#)

“The practitioner providing telepsychiatry services at a distant/hub site shall be considered an active part of the patient’s treatment team and shall be available for discussion of the case or for interviewing family members and others, as the case may require. Such practitioner shall prepare appropriate progress notes and securely forward them to the originating/spoke provider as a condition of reimbursement.”

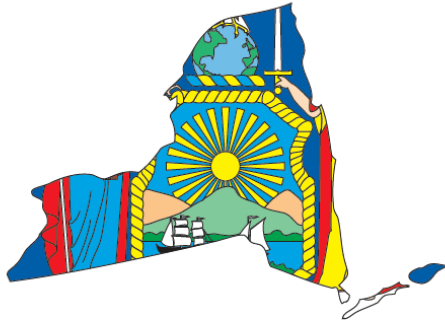
[14 N.Y. COMP. CODES R. § 596.6\(a\)\(9\).](#)

“A provider of services approved to utilize telepsychiatry services must have written protocols and procedures that address the following:

(1) Informed Consent: Protocols must exist affording persons receiving services the opportunity to provide informed consent to participate in any services utilizing telepsychiatry, including the right to refuse these services and to be apprised of the alternatives to telepsychiatry services, including any delays in service, need to travel, or risks associated with not having the services provided by telepsychiatry. Such informed consent may be incorporated into the informed consent process for in-person care, or a separate informed consent process for telepsychiatry services may be developed and used.

(i) The patient must be provided with basic information about telepsychiatry and shall provide his or her informed consent to participate in services utilizing this technology.

(ii) For patients under age 18, such information shall be shared with and informed consent obtained from the patient’s parent or guardian.



NEW YORK

(iii) The patient has the right to refuse to participate in telepsychiatry services, in which case evaluations must be conducted in-person by appropriate clinicians.

(iv) Telepsychiatry sessions shall not be recorded without the patient's consent."

[14 N.Y. COMP. CODES R. § 596.6\(b\)\(1\).](#)

New York Medicaid reimbursement laws also place restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth. According to New York Medicaid laws, an "Originating Site" for telehealth services is "a site at which a patient is located at the time health care services are delivered to him or her by means of telehealth. Originating sites shall be limited to facilities licensed under Articles twenty-eight [Hospitals] and forty [Hospice] of this chapter, facilities as defined in subdivision six of section 1.03 of the mental hygiene law [which includes any place where services for the mentally disabled are provided, such as psychiatric centers], private physician's or dentist's offices located within the state of New York and, when a patient is receiving health care services by means of remote patient monitoring, the patient's place of residence located within the state of New York or other temporary location located within or outside the state of New York."

[N.Y. PUB. HEALTH LAW § 2999-cc\(3\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

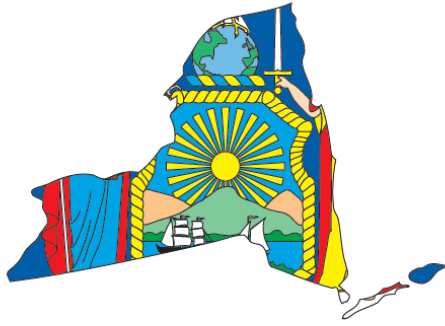
The telepsychiatry rule states that "the distant/ hub site practitioner must: (i) possess a current, valid license to practice in New York State"

[N.Y. COMP. CODES R. § 596.6\(a\)\(1\)\(i\).](#)

Under N.Y. PUB. HEALTH LAW § 2999-cc, "telehealth provider means a physician licensed pursuant to [article one hundred thirty-one of the education law](#)"—the article that applies to the profession of medicine and physician licensure.

[N.Y. PUB. HEALTH LAW § 2999-cc\(2\)\(a\).](#)

Similarly, New York regulations related to the credentialing and privileging by Article 28 hospitals of health care practitioners providing telemedicine services state, "Health care practitioner shall mean a person licensed pursuant to" the physician licensing provisions of the New York Education Law.



NEW YORK

[N.Y. PUB. HEALTH LAW § 2805-u\(1\)\(b\).](#)

The New York Education Law also contains a border state exception to physician licensure: “Any physician who is licensed in a bordering state and who resides near a border of this state, provided such practice is limited in this state to the vicinity of such border and provided such physician does not maintain an office or place to meet patients or receive calls within this state” may practice medicine within the state without a New York license.

[N.Y. EDUC. LAW § 6526\(2\).](#)

The “Statements on Telemedicine” guidance referenced in Epstein Becker Green’s original (2016) 50-State Survey of Telemental/Telebehavioral Health has been removed from the New York State Department of Health’s website.

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The “Statements on Telemedicine” guidance referenced in Epstein Becker Green’s original (2016) 50-State Survey of Telemental/Telebehavioral Health has been removed from the New York State Department of Health’s website.

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

“Procedures for prescribing medications through telepsychiatry must be identified and must be in accordance with applicable New York State and federal regulations.”

[N.Y. COMP. CODES R. §596.6\(b\)\(5\).](#)

PSYCHOLOGISTS

What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

“Telepractice includes the use of telecommunications and web-based applications to provide assessment, diagnosis, intervention, consultation, supervision, education and information across distance. It may include providing non-face-to-face psychological, mental health, marriage and family, creative arts, psychoanalytic, psychotherapy and



NEW YORK

social work services via technology such as telephone, e-mail, chat and videoconferencing. Telecommunications and Electronic Medical Records (EMRs) may include computer files, documents, e-mails, interactive media sessions, CD's, audio-tapes, video-tapes, fax images, phone messages and text messages.”

[New York State Education Department, Office of the Professions, Practice Alert: Telepractice \(last updated Dec. 17, 2013\)](#) (applies broadly to mental health practitioners).

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

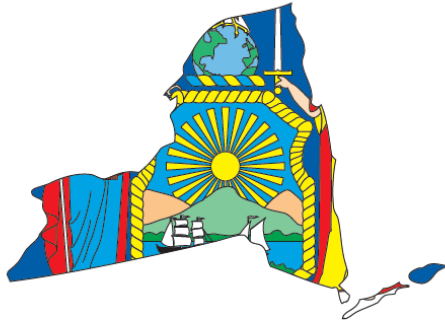
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[New York State Education Department, Office of the Professions, Practice Alert: Telepractice \(last updated Dec. 17, 2013\)](#) (applies broadly to mental health practitioners).

COUNSELORS

What are the acceptable modalities (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

“Telepractice includes the use of telecommunications and web-based applications to provide assessment, diagnosis, intervention, consultation, supervision, education and information across distance. It may include providing non-face-to-face psychological, mental health, marriage and family, creative arts, psychoanalytic, psychotherapy and social work services via technology such as telephone, e-mail, chat and videoconferencing. Telecommunications and Electronic Medical Records (EMRs) may include computer files, documents, e-mails, interactive media sessions, CD's, audio-tapes, video-tapes, fax images, phone messages and text messages.”



NEW YORK

[New York State Education Department, Office of the Professions, Practice Alert: Telepractice \(last updated Dec. 17, 2013\)](#) (applies broadly to mental health practitioners).

MARRIAGE/FAMILY THERAPISTS

What are the acceptable modalities (e.g., telephone, video) for the practice of marriage/family therapy via telemedicine/telehealth that meet the standard of care for the state?

“Telepractice includes the use of telecommunications and web-based applications to provide assessment, diagnosis, intervention, consultation, supervision, education and information across distance. It may include providing non-face-to-face psychological, mental health, marriage and family, creative arts, psychoanalytic, psychotherapy and social work services via technology such as telephone, e-mail, chat and videoconferencing. Telecommunications and Electronic Medical Records (EMRs) may include computer files, documents, e-mails, interactive media sessions, CD’s, audio-tapes, video-tapes, fax images, phone messages and text messages.”

[New York State Education Department, Office of the Professions, Practice Alert: Telepractice \(last updated Dec. 17, 2013\)](#) (applies broadly to mental health practitioners).

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

The OMH rule regulating telepsychiatry includes a confidentiality provision.

“(2) Protocols and procedures should be maintained as required by Mental Hygiene Law Section 33.13 and the Health Insurance Portability and Accountability Act (HIPAA) at 45 CFR Parts 160 and 164. Such protocols shall ensure that all current confidentiality requirements and protections that apply to written clinical records shall apply to services delivered by telecommunications, including the actual transmission of the service, any recordings made during the time of transmission, and any other electronic records.”

- (i) All confidentiality requirements that apply to written medical records shall apply to services delivered by telecommunications, including the actual



NEW YORK

transmission of the service, any recordings made during the time of transmission, and any other electronic records.

- (ii) The spaces occupied by the patient at the originating/spoke site and the practitioner at the distant/hub site must meet the minimum standards for privacy expected for patient-clinician interaction at a single Office of Mental Health licensed location.”

[14 N.Y. COMP. CODES R. § 596.6\(b\)\(2\).](#)

The OMH rule also includes a provision pertaining to security of electronic transmission:

“All telepsychiatry services must be performed on dedicated secure transmission linkages that meet minimum federal and state requirements, including but not limited to 45 C.F.R. Parts 160 and 164 (HIPAA Security Rules), and which are consistent with guidelines of the Office. Transmissions must employ acceptable authentication and identification procedures by both the sender and the receiver.”

[14 N.Y. COMP. CODES R. § 596.6\(b\)\(3\).](#)

MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

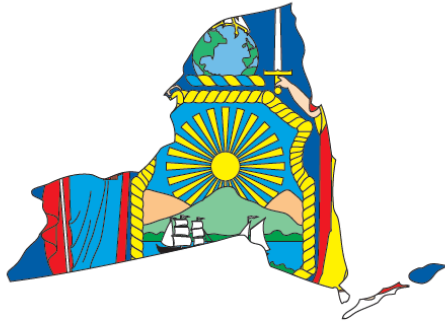
The OMH rule pertaining to telepsychiatry states, “telepsychiatry services provided to patients under age 18 may include staff that are qualified mental health professionals, as such term is defined in this Part, or other appropriate staff of the originating/spoke site in the room with the patient. Such determinations shall be clinically based, consistent with clinical guidelines issued by the Office.”

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(6\).](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

The OMH rule requires telepsychiatry providers to have patient rights policies in place. A patient rights policy “must ensure that each individual receiving telepsychiatry services is



NEW YORK

informed and made aware of the role of the practitioner at the distant/hub site, as well as qualified professional staff at the originating/spoke site who are going to be responsible for follow-up or on-going care.”

[14 N.Y. COMP. CODES R. § 596.6\(a\)\(7\)\(i\).](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

A corporation shall not exclude from coverage a service that is otherwise covered under a contract that provides comprehensive coverage for hospital, medical or surgical care because the service is delivered via telehealth, as that term is defined in subsection (b) of this section; provided, however, that a corporation may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the contract. A corporation may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. A corporation may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

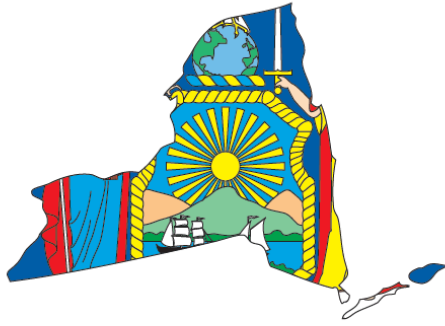
[N.Y. INS. LAW § 4306-g\(a\).](#)

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

“The originating/spoke site where the patient is admitted is authorized to bill Medicaid for telepsychiatry services.”

[14 N.Y. COMP. CODES R. § 596.7\(a\).](#)

Under the Medicaid program, telepsychiatry services are covered when medically necessary and under the following circumstances:



NEW YORK

- (1) the person receiving services is located at the originating/spoke site and the practitioner is located at the distant/hub site;
- (2) the originating/spoke site is the provider of services where the person receiving services is located;
- (3) the distant/hub site is the site where the practitioner is located;
- (4) the person receiving services is present during the telepsychiatry encounter or consultation;
- (5) the physician/nurse practitioner is not conducting the telepsychiatry encounter consultation at the originating/spoke site;
- (6) the request for telepsychiatry services and the rationale for the request are documented in the individual's clinical record;
- (7) the clinical record includes documentation that the telepsychiatry encounter or consultation occurred and that the results and findings were communicated to the requesting provider of services;
- (8) the practitioner at the distant/hub site is:
 - (i) licensed in New York State;
 - (ii) practicing within his/her scope of specialty practice;
 - (iii) providing services from a site that participates in New York Medicaid;
 - (iv) affiliated with the originating/spoke site facility; and
 - (v) if the originating/spoke site is a hospital, credentialed and privileged at the originating/spoke site facility.

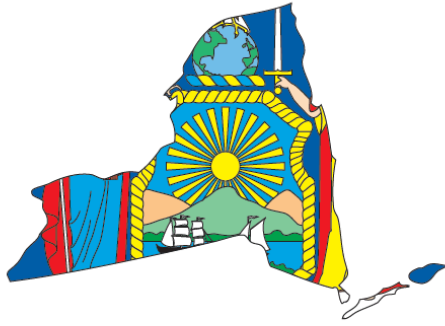
[14 N.Y. COMP. CODES R. § 596.7\(b\).](#)

“If the person receiving services is not present during the provision of the telepsychiatry service, the service is not eligible for Medicaid reimbursement and remains the responsibility of the originating/spoke facility.”

[14 N.Y. COMP. CODES R. § 596.7\(c\).](#)

“The following interactions do not constitute reimbursable telepsychiatry services;

- (1) telephone conversations;



NEW YORK

- (2) video cell phone interactions;
- (3) e-mail messages.”

[14 N.Y. COMP. CODES R. § 596.7\(d\).](#)

“The originating/spoke site may bill for administrative expenses only when a telepsychiatric connection is being provided and a physician or nurse practitioner is not present at the originating/spoke site with the patient at the time of the encounter.”

[14 N.Y. COMP. CODES R. § 596.7\(e\).](#)

“Reimbursement for services provided via telepsychiatry must be in accordance with the rates and fees established by the Office and approved by the Director of the Budget.”

[14 N.Y. COMP. CODES R. § 596.7\(f\).](#)

“If a telepsychiatry service is undeliverable due to a failure of transmission or other technical difficulty, reimbursement shall not be provided.”

[14 N.Y. COMP. CODES R. § 596.7\(g\).](#)



NORTH CAROLINA

What is the definition of “telemedicine” or “telehealth”?

North Carolina’s Medical Board defines “telemedicine” as “the practice of medicine using electronic communication, information technology or other means between a licensee in one location and a patient in another location with or without an intervening health care provider.”

[North Carolina Medical Board, *Position Statement: Telemedicine \(amended Nov. 2014\)*.](#)

The North Carolina Medicaid Health Choice Manual states the following:

Telemedicine is the use of two-way real-time interactive audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations. A beneficiary is referred by one provider to receive the services of another provider via telemedicine.

[North Carolina Division of Medical Assistance, *Medicaid and Health Choice Manual, Clinical Coverage Policy No: 1H, 1.1.1 \(Oct. 1, 2015\)*.](#)

When used to conduct follow-up protocols for screened newborns who have been diagnosed with congenital heart defects, the term “telemedicine” is defined as “the use of audio and video between places of lesser and greater medical capability or expertise to provide and support health care when distance separates participants who are in different geographical locations.”

[N.C. GEN. STAT. § 130A-125\(b2\)\(1\).](#)

What is the definition of “telemental,” “telebehavior,” and “telepsychiatry”?

“Telepsychiatry is the use of two-way real-time interactive audio and video between places of lesser and greater psychiatric expertise to provide and support psychiatric care when distance separates participants who are in different geographical locations. A beneficiary is referred by one provider to receive the services of another provider via telepsychiatry.”

[North Carolina Division of Medical Assistance, *Medicaid and Health Choice Manual, Clinical Coverage Policy No: 1H, 1.1.2 \(Oct. 1, 2015\)*.](#)



NORTH CAROLINA

SOCIAL WORKERS

What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

The North Carolina Social Worker Certification and Licensure Act defines “clinical social work practice” as “the professional application of social work theory and methods to the biopsychosocial diagnosis, treatment, or prevention, of emotional and mental disorders. Practice includes, by whatever means of communications, the treatment of individuals, couples, families, and groups, including the use of psychotherapy and referrals to and collaboration with other health professionals when appropriate. . . .”

[N.C. GEN. STAT. § 90B-3\(6\).](#)

The North Carolina Social Work Certification and Licensure Board has released a position statement for social workers practicing telehealth remotely:

As the definition of general social work practice and clinical social work practice in North Carolina includes the phrase ‘by whatever means of communications,’ it is the position of the Board that technology facilitated services are one of several means of providing professional services, and as such, remain fully subject to the statutes and rules governing social work practice as outlined in N.C.G.S. § 90B and Title 21, Chapter 63 of the NC Administrative Code.

[North Carolina Social Work Certification & Licensure Board, Position Statement on Technology Facilitated Services \(amended Feb. 2, 2017\), at 1.](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

A social worker is responsible for ensuring that the following practice consideration is addressed: “Compliance with regulatory/licensure requirements for the jurisdiction in which the social worker provides services *as well* as the jurisdiction in which the client receives services.”

[North Carolina Social Work Certification & Licensure Board, Position Statement on Technology Facilitated Services \(amended Feb. 2, 2017\), at 2.](#)



NORTH CAROLINA

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

The North Carolina Social Work Certification and Licensure Board describes a very broad set of acceptable modalities:

“While [technology facilitated services] applies to more mature technologies (such as telephone and facsimiles) this position statement expands to address the use of recent and emerging technologies, such as telepractice, electronic therapy, distance therapy, electronic supervision, Web-conferencing, Video-conferencing, Webcasts, etc.”

[North Carolina Social Work Certification & Licensure Board, Position Statement on Technology Facilitated Services \(amended Feb. 2, 2017\), at 1.](#)

COUNSELORS

What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

The [North Carolina] Board [of Licensed Professional Counselors] considers that the practice of counseling occurs both where the counselor who is providing counseling services is located and where the individuals (clients) who are receiving services are located. In order for an individual to provide counseling services in North Carolina, that individual must be licensed by the North Carolina Board of Licensed Professional Counselors or be exempt under the Licensed Professional Counselors Act. On this basis, if an individual licensed in North Carolina renders services electronically to an out-of-state client, it is the responsibility of the counselor to ensure that the counselor is complying with the laws and rules in the other state.

[North Carolina Board of Licensed Professional Counselors, *Distance Counseling Policy \(Feb. 2, 2017\)*. In order to access this policy from the Board's homepage, scroll down and select the icon entitled "Distance Counseling Policy."](#)



NORTH CAROLINA

MARRIAGE/FAMILY THERAPISTS

What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

Updated link: [North Carolina Marriage & Family Therapy Licensure Board, Position Statement: Provision of Services via Electronic Means \(Aug. 30, 2012\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [North Carolina Marriage & Family Therapy Licensure Board, Position Statement: Provision of Services via Electronic Means \(Aug. 30, 2012\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What is the regulatory body in the state that governs the practice of advanced practice nursing?

In North Carolina, an “Advanced Practice Registered Nurse” or “APRN” is a collective term for (1) nurse practitioners, (2) nurse anesthetists, (3) nurse midwives, and (4) clinical nurse specialists. These practitioners are regulated by the following state agencies:

- Nurse Practitioners: a Joint Subcommittee of the [North Carolina Medical Board](#) and [North Carolina Board of Nursing](#)
- Nurse Anesthetists: [North Carolina Board of Nursing](#)
- Nurse Midwives: [North Carolina Midwifery Joint Committee](#)
- Clinical Nurse Specialists: [National Association of Clinical Nurse Specialists](#) (“National CNS certification is required if one wishes to be recognized as a CNS by the NCBON. Recognition as a CNS by the NCBON is required to practice as a CNS in the state.”)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

The North Carolina Board of Nursing has released a position statement regarding “Telehealth/Telenursing” that addresses the scope of practice, but the position statement



NORTH CAROLINA

discusses the practice of telehealth by RNs/LPNs and does not specifically reference the practice of telehealth by APRNs.

[North Carolina Board of Nursing, *Position Statement: Telehealth/Telenursing* \(May 2016\).](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

When practicing telehealth counseling, the North Carolina Board of Licensed Professional Counselors states that “[i]t is necessary for counselors to use encrypted technology.”

[North Carolina Board of Licensed Professional Counselors, *Distance Counseling Policy* \(Feb. 2, 2017\).](#) ***In order to access this policy from the Board’s homepage, scroll down and select a phone icon entitled “Distance Counseling Policy.”***

For social work telehealth practice, the North Carolina Social Work Certification and Licensure Board requires:

“Confidentiality:

- a) Clear identification of what is confidential and the limits of confidentiality
- b) Knowledge of and adherence to HIPAA requirements
- c) Documentation adequate to meet professional responsibilities
- d) Security of confidential information transmitted and stored, including security software, potential risks, ethical considerations, data record storage, etc.”

[North Carolina Social Work Certification & Licensure Board, *Position Statement on Technology Facilitated Services* \(amended Feb. 2, 2017\), at 2.](#)



NORTH DAKOTA

What is the definition of “telemedicine” or “telehealth”?

As of July 2017, the North Dakota Board of Medicine’s proposed telemedicine regulations ([N.D. ADMIN. CODE 50-02-15-01 et seq.](#)) remain in draft.

A North Dakota statute enacted in 2017 pertaining to individual and group health insurance coverage of telehealth services defines “telehealth” as follows:

“Telehealth’:

(1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site and that is delivered over a secure connection that complies with the requirements of state and federal laws.

(2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology.

(3) Does not include the use of audio - only telephone, electronic mail, or facsimile transmissions.”

[N.D. CENT. CODE §§ 26.1-36-09.15\(1\)\(g\).](#)

The North Dakota Medicaid Program defines “telemedicine” as “the use of interactive audio-video equipment to link practitioners and patients at different sites.”

North Dakota Department of Human Services, Medical Services Division, [Medicaid Medical Policy – Telemedicine Services](#) (Jan. 14, 2015).

What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

In an October 2014 statement published by the North Dakota State Board of Psychologist Examiners, the term “telepsychology” is defined as “[t]he use of technology to provide psychological services via remote means. . . .”

North Dakota State Board of Psychologist Examiners, [Board Statement on Telepsychology in North Dakota](#) (Oct. 2014), at 1.



NORTH DAKOTA

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

As of July 2017, the North Dakota Board of Medicine's proposed telemedicine regulations ([N.D. ADMIN. CODE 50-02-15-01 et seq.](#)) remain in draft form.

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

As of July 2017, the North Dakota Board of Medicine's proposed telemedicine regulations ([N.D. ADMIN. CODE 50-02-15-01 et seq.](#)) remain in draft form.

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

As of July 2017, the North Dakota Board of Medicine's proposed telemedicine regulations ([N.D. ADMIN. CODE 50-02-15-01 et seq.](#)) remain in draft form.

COUNSELORS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Although no special/specific telemedicine license is required for "Distance Counseling," the North Dakota Board of Counselor Examiners requires that counselors who "wish to practice counseling via Internet with clients residing in North Dakota . . . must be licensed by the North Dakota Board of Counselor Examiners."

The Board also cautions counselors "to be aware of the laws and requirements of the state where the client resides, which may require licensure in that state."

North Dakota Board of Counselor Examiners, *Distance Counseling*, <http://www.ndbce.org/distance.shtml>.

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?



NORTH DAKOTA

Updated link: [N.D. CENT. CODE § 23-12-14.](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

As of July 2017, the North Dakota Board of Medicine's proposed telemedicine regulations ([N.D. ADMIN. CODE 50-02-15-01 et seq.](#)) remain in draft form.

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

Yes, per the state's parity statute for telehealth coverage and reimbursement:

"An insurer may not deliver, issue, execute, or renew a policy that provides health benefits coverage unless that policy provides coverage for health services delivered by means of telehealth. . . . Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the insurer with the health services providers in the same manner as the insurer with the health services providers in the same manner as the insurer establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means."

[N.D. CENT. CODE §§ 26.1-36-09.15\(2\)-\(3\).](#)



OHIO

What is the definition of “telemedicine” or “telehealth”?

In the portion of the Ohio Revised Code discussing Medicaid State Plan Services, “‘telehealth service’ means a health care service delivered to a patient through the use of interactive audio, video, or other telecommunications or electronic technology from a site other than the site where the patient is located.”

[OHIO REV. CODE § 5164.95\(A\).](#)

The Ohio Administrative Code’s chapter discussing Medicaid states the following:

“‘Telemedicine’ is the direct delivery of services to a patient via synchronous, interactive, real-time electronic communication that comprises both audio and video elements. The following activities are not telemedicine:

- (a) The delivery of service by electronic mail, telephone, or facsimile transmission;
- (b) Conversations between practitioners regarding the patient without the patient present either physically or via synchronous, interactive, real-time electronic communication; and
- (c) Audio-video communication related to the delivery of service in an intensive care unit.”

[OHIO ADMIN. CODE § 5160-1-18\(A\)\(1\).](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

According to a 2012 position statement on telemedicine issued by the State Medical Board of Ohio, “[t]he practice of medicine is deemed to occur in the state in which the patient is located. Therefore, any licensee using telemedicine to regularly provide medical services to patients located in Ohio should be licensed to practice medicine in Ohio. Licensees need not reside in Ohio, as long as they have a valid, current Ohio medical license or telemedicine certificate.”

[State Medical Board of Ohio, *Position Statement on Telemedicine \(May 12, 2012\)*, at 2.](#)



OHIO

SOCIAL WORKERS

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

None identified.

However, “telephonic” technology is not included in the Ohio Administrative Code’s definition of “electronic service delivery”:

“‘Electronic service delivery’ (electronic therapy, cyber therapy, e-therapy, etc.) means counseling, social work or marriage and family therapy in any form offered or rendered primarily by electronic or technology-assisted approaches , except telephonic, when the counselor, social worker or marriage and family therapist and the client are not located in the same place during delivery of services.”

[OHIO ADMIN. CODE § 4757-3-01\(EE\).](#)

COUNSELORS

What are the acceptable modalities (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

None identified.

However, “telephonic” technology is not included in the Ohio Administrative Code’s definition of “electronic service delivery”:

“‘Electronic service delivery’ (electronic therapy, cyber therapy, e-therapy, etc.) means counseling, social work or marriage and family therapy in any form offered or rendered primarily by electronic or technology-assisted approaches , except telephonic, when the counselor, social worker or marriage and family therapist and the client are not located in the same place during delivery of services.”

[OHIO ADMIN. CODE § 4757-3-01\(EE\).](#)



OHIO

MARRIAGE/FAMILY THERAPISTS

What are the acceptable modalities (e.g., telephone, video) for the practice of marriage/family therapy via telemedicine/telehealth that meet the standard of care for the state?

None identified.

However, “telephonic” technology is not included in the Ohio Administrative Code’s definition of “electronic service delivery”:

“‘Electronic service delivery’ (electronic therapy, cyber therapy, e-therapy, etc.) means counseling, social work or marriage and family therapy in any form offered or rendered primarily by electronic or technology-assisted approaches , except telephonic, when the counselor, social worker or marriage and family therapist and the client are not located in the same place during delivery of services.”

[OHIO ADMIN. CODE § 4757-3-01\(EE\).](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

According Ohio regulations, when Ohio practitioners of counseling, social work, and/or marriage and family therapy use “electronic service delivery” certain standards apply, including the following:

“Confidentiality in electronic service delivery shall be maintained by the licensee:

(1) Licensees shall use encryption methods for electronic service delivery, except for treatment reminders, scheduling contacts or other information provided outside of a therapeutic context; and

(2) Shall inform electronic service delivery clients details of data record storage.”

[OHIO ADMIN. CODE § 4757-5-13\(B\).](#)



OHIO

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

According to the State Medical Board of Ohio's position statement on telemedicine, "[l]icensees using telemedicine should also ensure the availability for appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care providers."

[State Medical Board of Ohio, *Position Statement on Telemedicine* \(May 12, 2012\), at 2.](#)



OKLAHOMA

What is the definition of “telemedicine” or “telehealth”?

The Oklahoma Insurance Code defines “telemedicine” as “the practice of health care delivery, diagnosis, consultation, treatment, including but not limited to, the treatment and prevention of strokes, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications. Telemedicine is not a consultation provided by telephone or facsimile machine.”

[OKLA. STAT. tit. 36 § 6802.](#)

An Oklahoma statute pertaining to the delivery of mental health services defines “telemedicine” as “the practice of health care delivery, diagnosis, consultation, evaluation, treatment, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications. Telemedicine uses audio and video multimedia telecommunication equipment which permits two-way real-time communication between a health care practitioner and a patient who are not in the same physical location. Telemedicine shall not include consultation provided by telephone or facsimile machine”

[OKLA. STAT. tit. 43A § 1-103\(18\).](#)

Oklahoma recently enacted a telemedicine standards statute that will take effect on Nov. 1, 2017, and defines “telemedicine” as “the practice of health care delivery, diagnosis, consultation, evaluation and treatment, transfer of medical data or exchange of medical education information by means of a two-way, real-time interactive communication, not to exclude store and forward technologies, between a patient and a physician with access to and reviewing the patient's relevant clinical information prior to the telemedicine visit. ‘Telemedicine’ and ‘store and forward technologies’ shall not include consultations provided by telephone audio-only communication, electronic mail, text message, instant messaging conversation, website questionnaire, nonsecure video conference or facsimile machine.”

[S.B. 726, 56th Ok. Leg., Reg. Sess. \(Okla. 2017\) \(effective Nov. 1, 2017 and to be codified as OKLA. STAT § 59-478\).](#)

PSYCHIATRISTS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Oklahoma recently enacted a telemedicine standards statute that will take effect on Nov. 1, 2017, and states the following:



OKLAHOMA

“A. Unless otherwise prohibited by law, a valid physician-patient relationship may be established by an allopathic or osteopathic physician with a patient located in this state through telemedicine, provided that the physician:

1. Holds a license to practice medicine in this state;
2. Confirms with the patient the patient's identity and physical location; and
3. Provides the patient with the treating physician's identity and professional credentials.”

However:

“D. A physician-patient relationship shall not be created solely based on the receipt of patient health information by a physician. The duties and obligations created by a physician-patient relationship shall not apply until the physician affirmatively:

1. Undertakes to diagnose and treat the patient; or
2. Participates in the diagnosis and treatment of the patient.”

[S.B. 726, 56th Ok. Leg., Reg. Sess., Section 2\(A\), \(D\) \(Okla. 2017\) \(effective Nov. 1, 2017 and to be codified as OKLA. STAT § 59-478\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Oklahoma statutes and regulations do not insist on a face-to-face encounter prior to prescribing medications as long as the psychiatrist meets “the equipment requirements as specified in OAC 435:10-7-13(b).”

[OKLA. ADMIN. CODE § 435:10-1-4.](#)

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?

Oklahoma recently enacted a telemedicine standards statute that will take effect on Nov. 1, 2017, and states the following:



OKLAHOMA

“B. Telemedicine and store and forward technology encounters shall comply with the Health Insurance Portability and Accountability Act of 1996 and ensure that all patient communications and records are secure and confidential.”

[S.B. 726, 56th Ok. Leg., Reg. Sess., Section 2\(B\) \(Okla. 2017\) \(effective Nov. 1, 2017 and to be codified as OKLA. STAT. § 59-478\).](#)

MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

Updated citation: [OKLA. ADMIN. CODE § 317:30-3-27\(b\)\(5\).](#)

CONTROLLED SUBSTANCES

What are the requirements/laws governing the prescribing of “controlled” substances?”

Oklahoma recently enacted a telemedicine standards statute that will take effect on Nov. 1, 2017, and states the following:

“C. Telemedicine encounters and encounters involving store and forward technologies in this state shall not be used to establish a valid physician-patient relationship for the purpose of prescribing opiates, synthetic opiates, semisynthetic opiates, benzodiazepine or carisprodol, but may be used to prescribe opioid antagonists or partial agonists pursuant to Sections 1-2506.1 and 1-2506.2 of Title 63 of the Oklahoma Statutes.”

[S.B. 726, 56th Ok. Leg., Reg. Sess., Section 2\(C\) \(Okla. 2017\) \(effective Nov. 1, 2017 and to be codified as OKLA. STAT. § 59-478\).](#)



OREGON

What is the definition of “telemedicine” or “telehealth”?

Oregon’s Medicaid program defines “telemedicine” as “the use of medical information, exchanged from one site to another, via telephonic or electronic communications, to improve a patient’s health status.”

[Oregon Health Authority, Health Systems Division, Integrated Health Programs, Medical-Surgical Services Administrative Rulebook 410-130-0610 \(May 25, 2017\).](#)

[OR. ADMIN. R. § 410-130-0610\(1\).](#)

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

None identified.

However, in its January 2012 “Statements of Philosophy” regarding telemedicine, the Oregon Medical Board states the following:

The Oregon Medical Board considers the full use of the patient history, physical examination, and additional laboratory or other technological data all important components of the physician’s evaluation to arrive at diagnosis and to develop therapeutic plans. In those circumstances when one or more of those methods are not used in the patient’s evaluation, the physician is held to the same standard of care for the patient’s outcome.

[Oregon Medical Board, Statements of Philosophy: Telemedicine \(Jan. 2012\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“A person may not engage in the practice of medicine across state lines . . . unless the person is licensed in accordance with ORS 677.139 (License to practice medicine across state lines).”

[OR. REV. STAT. § 677.137\(1\).](#)



OREGON

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?

Updated citation: [OR. ADMIN. R. §§ 309-032-0341\(1\)\(d\), \(f\).](#)

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

Updated citation: [OR. ADMIN. R. §§ 410-130-0610\(3\)\(c\)\(B\)–\(C\).](#)

COVERAGE & REIMBURSEMENT

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

“Patient consultations using telephone and online or electronic mail (e-mail) are covered when billed services comply with the practice guidelines set forth by the Health Service Commission (HSC) and the applicable HSC-approved code requirements, delivered consistent with the HSC practice guideline[.]”

“Patient consultations using videoconferencing, a synchronous (live two-way interactive) video transmission resulting in real time communication between a medical practitioner located in a distant site and the client being evaluated and located in an originating site, is covered when billed services comply with the billing requirements stated in below[.]”

[OR. ADMIN. R. §§ 410-130-0610\(4\)\(b\)–\(c\).](#)

[Oregon Health Authority, Health Systems Division, Integrated Health Programs, Medical-Surgical Services Administrative Rulebook 410-130-0610 \(May 25, 2017\).](#)

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Updated citation: [Oregon Health Authority, Health Systems Division, Integrated Health Programs, Medical-Surgical Services Administrative Rulebook 410-130-0610 \(May 25, 2017\).](#)

Specifically, for purposes of “behavioral health services” delivered via telemedicine,



OREGON

“the Authority shall provide coverage for telemedicine services to the same extent that the services would be covered if they were provided in person.”

[Oregon Health Authority, Health Systems Division, Integrated Health Programs, Behavioral Health Services Administrative Rulebook 410-172-0850 \(Apr. 4, 2017\).](#)

“Behavioral Health” is defined as “mental health, mental illness, addiction disorders, and substance use disorders.”

“Behavioral Health Services” are defined as “medically appropriate services rendered or made available to a recipient for treatment of a behavioral health or substance use disorders diagnosis.”

[Oregon Health Authority, Health Systems Division, Integrated Health Programs, Behavioral Health Services Administrative Rulebook 410-172-0600 \(Apr. 4, 2017\).](#)



PENNSYLVANIA

PSYCHIATRISTS

What is the regulatory body in the state that governs the practice of psychiatry?

Updated link: [Pennsylvania State Board of Medicine](#)

PSYCHOLOGISTS

What is the regulatory body in the state that governs the practice of psychology?

Updated link: [Pennsylvania State Board of Psychology](#)

SOCIAL WORKERS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [49 PA. CODE § 47.1.](#)

COUNSELORS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [49 PA. CODE § 49.1.](#)

MARRIAGE/FAMILY THERAPISTS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [49 PA. CODE § 48.1.](#)



PENNSYLVANIA

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [49 PA. CODE § 21.1.](#)

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?

The Pennsylvania State Board of Psychology's Code of Ethics states the following:

Psychologists shall safeguard the confidentiality of information about an individual that has been obtained in the course of teaching, practice or investigation. Psychologists may not, without the written consent of their clients or the client's authorized legal representative, or the client's guardian by order as a result of incompetency proceedings, be examined in a civil or criminal action as to information acquired in the course of their professional service on behalf of the client. Information may be revealed with the consent of the clients affected only after full disclosure to them and after their authorization. Psychologists shall exercise reasonable care to prevent their employees, associates and others whose services are utilized by them from disclosing or using information about the client.

[49 PA. CODE § 41.61, Principle 5\(a\).](#)



RHODE ISLAND

What is the definition of “telemedicine” or “telehealth”?

Under Rhode Island’s Telemedicine Coverage Act, enacted in 2016 and codified as part of the state’s insurance code, “telemedicine means the delivery of clinical health-care services by means of real time, two-way electronic audiovisual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, treatment, and care management of a patient's health care while such patient is at an originating site and the health-care provider is at a distant site, consistent with applicable federal laws and regulations. Telemedicine does not include an audio-only telephone conversation, email message, or facsimile transmission between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions.” [R.I. GEN. LAWS § 27-81-3\(12\)](#).

Rhode Island’s Board of Medical Licensure and Discipline has released telemedicine guidance that defines “telemedicine” as “the delivery of health care where there is no in-person exchange. Telemedicine, more specifically, is a mode of delivering health care services and public health utilizing information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from health care providers.” [Rhode Island Board of Medical Licensure and Discipline, Guidelines for the Appropriate Use of Telemedicine and the Internet in Medical Practice \(2013\)](#).

PSYCHIATRISTS

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

Under Rhode Island’s Telemedicine Coverage Act, enacted in 2016 and codified as part of the state’s insurance code, telemedicine is delivered “by means of real time, two-way electronic audiovisual communications, including the application of secure video conference or store-and-forward technology.” However, “telemedicine does not include an audio-only telephone conversation, email message, or facsimile transmission between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions.” [R.I. GEN. LAWS § 27-81-3\(12\)](#).



RHODE ISLAND

PSYCHOLOGISTS

What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

Under Rhode Island's Telemedicine Coverage Act, enacted in 2016 and codified as part of the state's insurance code, telemedicine is delivered "by means of real time, two-way electronic audiovisual communications, including the application of secure video conference or store-and-forward technology." However, "telemedicine does not include an audio-only telephone conversation, email message, or facsimile transmission between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions." [R.I. GEN. LAWS § 27-81-3\(12\)](#).

SOCIAL WORKERS

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

Under Rhode Island's Telemedicine Coverage Act, enacted in 2016 and codified as part of the state's insurance code, telemedicine is delivered "by means of real time, two-way electronic audiovisual communications, including the application of secure video conference or store-and-forward technology." However, "telemedicine does not include an audio-only telephone conversation, email message, or facsimile transmission between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions." [R.I. GEN. LAWS § 27-81-3\(12\)](#).

COUNSELORS

What are the acceptable modalities (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

Under Rhode Island's Telemedicine Coverage Act, enacted in 2016 and codified as part of the state's insurance code, telemedicine is delivered "by means of real time, two-way electronic audiovisual communications, including the application of secure video conference or store-and-forward technology." However, "telemedicine does not include an audio-only telephone conversation, email message, or facsimile transmission



RHODE ISLAND

between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions.” [R.I. GEN. LAWS § 27-81-3\(12\)](#).

MARRIAGE/FAMILY THERAPISTS

What are the acceptable modalities (e.g., telephone, video) for the practice of marriage/family therapy via telemedicine/telehealth that meet the standard of care for the state?

Under Rhode Island’s Telemedicine Coverage Act, enacted in 2016 and codified as part of the state’s insurance code, telemedicine is delivered “by means of real time, two-way electronic audiovisual communications, including the application of secure video conference or store-and-forward technology.” However, “telemedicine does not include an audio-only telephone conversation, email message, or facsimile transmission between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions.” [R.I. GEN. LAWS § 27-81-3\(12\)](#).

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

Under Rhode Island’s Telemedicine Coverage Act, enacted in 2016 and codified as part of the state’s insurance code, telemedicine is delivered “by means of real time, two-way electronic audiovisual communications, including the application of secure video conference or store-and-forward technology.” However, “telemedicine does not include an audio-only telephone conversation, email message, or facsimile transmission between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions.” [R.I. GEN. LAWS § 27-81-3\(12\)](#).

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

Rhode Island’s Board of Medical Licensure and Discipline has released telemedicine guidance (which, at a minimum, would apply to telepsychiatry services) that states the following: “[W]henever a patient’s clinical presentation suggests the need for an in-person physical examination, the patient should be referred for an in-person evaluation



RHODE ISLAND

which is documented in the medical record. Failure to make necessary referrals or progressions to treatments without doing so constitutes unprofessional conduct.” [Rhode Island Board of Medical Licensure and Discipline, *Guidelines for the Appropriate Use of Telemedicine and the Internet in Medical Practice* \(2013\)](#).

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

Under Rhode Island’s Telemedicine Coverage Act, enacted in 2016 and codified as part of the state’s insurance code, the state requires that “[e]ach health insurer that issues individual or group accident-and-sickness insurance policies for health-care services and/or provides a health-care plan for health-care services shall provide coverage for the cost of such covered health-care services provided through telemedicine services, as provided in this section. A health insurer shall not exclude a health-care service for coverage solely because the health-care service is provided through telemedicine and is not provided through in-person consultation or contact, so long as such health-care services are medically appropriate to be provided through telemedicine services and, as such, may be subject to the terms and conditions of a telemedicine agreement between the insurer and the participating health-care provider or provider group.” However, “the requirements of this section shall apply to all policies and health plans issued, reissued, or delivered in the state of Rhode Island on and after January 1, 2018.” [R.I. GEN. LAWS § 27-81-4](#).

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

Rhode Island’s parity law does not specifically dictate reimbursement levels, but “[b]enefit plans offered by a health insurer may impose a deductible, copayment, or coinsurance requirement for a health-care service provided through telemedicine.” [R.I. GEN. LAWS § 27-81-4](#).



SOUTH CAROLINA

What is the definition of “telemedicine” or “telehealth”?

“Telemedicine’ means the practice of medicine using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening practitioner.”

[S.C. CODE ANN. § 40-47-20\(52\).](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

The rendering of telemedicine services must be done by an individual “licensed to practice medicine in South Carolina; provided, however a licensee need not reside in South Carolina as long as he or she has a valid, current South Carolina medical license; further, provided, that a licensee residing in South Carolina who intends to practice medicine via telemedicine to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards. . . .”

[S.C. CODE ANN. § 40-47-37\(C\)\(9\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall adhere to the same standard of care as a licensee employing more traditional in-person medical care and be evaluated according to the standard of care applicable to the licensee's area of specialty. A licensee shall not establish a physician-patient relationship by telemedicine pursuant to Section 40-47-113(B) for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis. The failure to conform to the appropriate standard of care is considered unprofessional conduct under Section 40-47-110(B)(9).”

[S.C. CODE ANN. § 40-47-37\(A\).](#)

“[A] licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall:

1. adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing such information upon request of the board;

**SOUTH CAROLINA**

2. provide an appropriate evaluation prior to diagnosing and/or treating the patient, which need not be done in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care; provided, that evaluations in which a licensee is at a distance from the patient, but a practitioner is able to provide various physical findings the licensee needs to complete an adequate assessment, is permitted; further, provided, that a simple questionnaire without an appropriate evaluation is prohibited;
3. verify the identity and location of the patient and be prepared to inform the patient of the licensee's name, location, and professional credentials;
4. establish a diagnosis through the use of accepted medical practices, which may include patient history, mental status evaluation, physical examination, and appropriate diagnostic and laboratory testing in conformity with the applicable standard of care;
5. ensure the availability of appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care practitioners, to be distributed to other treating health care practitioners only with patient consent and in accordance with applicable law and regulation;
6. prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II and Schedule III prescriptions are not permitted except for those Schedule II and Schedule III medications specifically authorized by the board, which may include, but not be limited to, Schedule II-nonnarcotic and Schedule III-nonnarcotic medications; further, provided, that licensees prescribing controlled substances by means of telemedicine must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44. . . .
7. maintain a complete record of the patient's care according to prevailing medical record standards that reflects an appropriate evaluation of the patient's presenting symptoms; provided that relevant components of the telemedicine interaction be documented as with any other encounter;
8. maintain the patient's records' confidentiality and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telemedicine shall be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing via traditional means; further, provided,



SOUTH CAROLINA

- that if a patient has a primary care provider and a telemedicine provider for the same ailment, then the primary care provider's medical record and the telemedicine provider's record constitute one complete medical record;
9. be licensed to practice medicine in South Carolina; provided, however, a licensee need not reside in South Carolina so long as he or she has a valid, current South Carolina medical license; further, provided, that a licensee residing in South Carolina who intends to practice medicine via telemedicine to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards; and
 10. discuss with the patient the value of having a primary care medical home and, if the patient requests, provide assistance in identifying available options for a primary care medical home.”

[S.C. CODE ANN. § 40-47-37\(C\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes. South Carolina-licensed physicians who establish physician-patient relationships solely via telemedicine may “prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II and Schedule III prescriptions are not permitted except for those Schedule II and Schedule III medications specifically authorized by the board, which may include, but not be limited to, Schedule II-nonnarcotic and Schedule III-nonnarcotic medications; further, provided, that licensees prescribing controlled substances by means of telemedicine must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44. . . .”

[S.C. CODE ANN. § 40-47-37\(C\)\(6\).](#)



SOUTH CAROLINA

COUNSELORS

What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

In a November 2015 position statement, the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists stated that “the SC Licensure Board has confirmed that it has no separate view per se with regard to the provision of services via electronic means as long as the licensee is practicing in a manner consistent with his/her training and experience, is receiving supervision as is appropriate, and the medium for doing so is not an issue.”

South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, [Provision of Services via Electronic, Distance Professional Services](#) (effective Nov. 17, 2015).

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

Further, the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists stated the following in a November 2015 position statement:

The Board considers that the practice of counseling, marriage and family therapy occurs both where the therapist who is providing therapeutic services is located and where the individuals (patients/clients) who are receiving services are located. In order for an individual to provide counseling and therapy services in South Carolina, that individual must be licensed by the South Carolina Board for Counselors, Marriage and Family Therapists and Psycho-educational Specialist. On this basis, if an individual licensed in South Carolina renders services electronically to an out-of-state client, it is recommended that the licensee contact the licensure board for counselors, marriage and family therapist or psycho-educational specialist in the state in which the clients resides to determine whether or not such practices are permitted in that jurisdiction. Licensees are advised to review the South Carolina Licensure Law and the Code of Ethics.

South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, [Provision of Services via Electronic, Distance Professional Services](#) (effective Nov. 17, 2015).



SOUTH CAROLINA

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists stated the following in a November 2015 position statement:

Clients should be informed of the encryption methods used to help ensure the security of communications. Also, counselors and therapists should inform clients as to whether session data is being preserved and if so, for in what manner and for how long. In addition, clients need to be informed regarding the procedures that will be in place in receiving and releasing client information received through the internet and other electronic sources.

South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, [Provision of Services via Electronic, Distance Professional Services](#) (effective Nov. 17, 2015).

MARRIAGE/FAMILY THERAPISTS

What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

In a November 2015 position statement, the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists stated that “the SC Licensure Board has confirmed that it has no separate view per se with regard to the provision of services via electronic means as long as the licensee is practicing in a manner consistent with his/her training and experience, is receiving supervision as is appropriate, and the medium for doing so is not an issue.”

South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, [Provision of Services via Electronic, Distance Professional Services](#) (effective Nov. 17, 2015).

Note: This information is the same as the information in the Counselors section (above) but is being repeated for clarity.

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.



SOUTH CAROLINA

Further, the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists stated the following in a November 2015 position statement:

The Board considers that the practice of counseling, marriage and family therapy occurs both where the therapist who is providing therapeutic services is located and where the individuals (patients/clients) who are receiving services are located. In order for an individual to provide counseling and therapy services in South Carolina, that individual must be licensed by the South Carolina Board for Counselors, Marriage and Family Therapists and Psycho-educational Specialist. On this basis, if an individual licensed in South Carolina renders services electronically to an out-of-state client, it is recommended that the licensee contact the licensure board for counselors, marriage and family therapist or psycho-educational specialist in the state in which the clients resides to determine whether or not such practices are permitted in that jurisdiction. Licensees are advised to review the South Carolina Licensure Law and the Code of Ethics.

South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, [Provision of Services via Electronic, Distance Professional Services](#) (effective Nov. 17, 2015).

Note: This information is the same as the information in the Counselors section (above) but is being repeated for clarity.

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists stated the following in a November 2015 position statement:

Clients should be informed of the encryption methods used to help ensure the security of communications. Also, counselors and therapists should inform clients as to whether session data is being preserved and if so, for in what manner and for how long. In addition, clients need to be informed regarding the procedures that will be in place in receiving and releasing client information received through the internet and other electronic sources.

South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, [Provision of Services via Electronic, Distance Professional Services](#) (effective Nov. 17, 2015).



SOUTH CAROLINA

Note: This information is the same as the information in the Counselors section (above) but is being repeated for clarity.

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, a license issued by the South Carolina Board of Nursing is generally required to practice as an APRN in South Carolina.

[S.C. CODE ANN. § 40-33-30.](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

According to the South Carolina Telemedicine Act, psychiatrists must

maintain the patient's records' confidentiality and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telemedicine shall be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing via traditional means; further, provided, that if a patient has a primary care provider and a telemedicine provider for the same ailment, then the primary care provider's medical record and the telemedicine provider's record constitute one complete medical record. . . .

[S.C. CODE ANN. § 40-47-37\(C\)\(8\).](#)

Further, the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists stated the following in a November 2015 position statement:

It is important for counselors and therapists to use encrypted technology as required by [HIPAA]. Clients should be informed of the encryption methods used to help ensure the security of communications. Also, counselors and therapists should inform clients as to whether session data is being preserved and if so, for in what manner and for how long. In addition, clients need to be informed regarding



SOUTH CAROLINA

the procedures that will be in place in receiving and releasing client information received through the internet and other electronic sources.

South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, [Provision of Services via Electronic, Distance Professional Services](#) (effective Nov. 17, 2015).

MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

Under South Carolina Medicaid policy, “if the beneficiary is a minor child, a parent and/or guardian must present the minor child for telemedicine service unless otherwise exempted by State or Federal law. The parent and/or guardian need not attend the telemedicine session unless attendance is therapeutically appropriate.”

South Carolina Department of Health and Human Services, [Physicians Provider Manual](#), sec. 2, p. 2-47 (June 2017).

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

“[A] licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall . . . ensure the availability of appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care practitioners, to be distributed to other treating health care practitioners only with patient consent and in accordance with applicable law and regulation. . . .”

[S.C. CODE ANN. § 40-47-37\(C\)\(5\)](#).

Further, the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists stated the following in a November 2015 position statement: “it is important that when providing services through electronic methods, the counselor and therapist be knowledgeable regarding emergency services available in the communities where their clients live.”



SOUTH CAROLINA

South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists, [Provision of Services via Electronic, Distance Professional Services](#) (effective Nov. 17, 2015).

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

South Carolina's Medicaid program defines "telemedicine" as "the use of medical information about a patient that is exchanged from one site to another via electronic communications to provide medical care to a patient in circumstances in which face-to-face contact is not necessary. In this instance, a physician or other qualified medical professional has determined that medical care can be provided via electronic communication with no loss in the quality or efficacy of the care. Electronic communication means the use of interactive telecommunication equipment that typically includes audio and video equipment permitting two-way, real-time interactive communication between the patient and the physician or practitioner at the referring site."

According to South Carolina's Medicaid program manual for physicians, "[t]elemedicine includes consultation, diagnostic, and treatment services. Telemedicine as a service delivery option, in some cases, can provide beneficiaries with increased access to specialists, better continuity of care, and eliminate the hardship of traveling extended distances."

South Carolina Department of Health and Human Services, [Physicians Provider Manual](#), sec. 2, p. 2-44 (June 2017).

Additionally, the South Carolina Medicaid program manual for physicians states, "Providers who meet the Medicaid credentialing requirements and are currently enrolled with the South Carolina Medicaid program are eligible to bill for telemedicine and telepsychiatry when the service is within the scope of their practice."

South Carolina Department of Health and Human Services, [Physicians Provider Manual](#), sec. 2, p. 2-45 (June 2017).

Further, the South Carolina Medicaid program manual for physicians outlines the following list of Medicaid telemedicine services:



SOUTH CAROLINA

- “Office or other outpatient visits (CPT codes 99201 – 99215)
- Inpatient consultation (CPT codes 99251-99255)
- Psychotherapy (CPT codes 90832, 90834, and 90837)
- Psychiatric diagnostic interview examination (CPT code 90791 and 90792)
- Neurobehavioral status examination (CPT code 96116)
- Electrocardiogram interpretation and report only (CPT code 93010)
- Echocardiography (CPT code 93307, 93308, 93320, 93321, and 93325)”

South Carolina Department of Health and Human Services, [Physicians Provider Manual](#), sec. 2, p. 2-46 (June 2017).

Additionally, the South Carolina Medicaid program manual for physicians states that “Medicaid covers telemedicine when the service is medically necessary and under the following circumstance:

- The medical care is individualized, specific, and consistent with symptoms or confirmed diagnosis of the illness or injury under treatment, and not in excess of the beneficiary’s need; and
- The medical care can be safely furnished, and no equally effective and more conservative or less costly treatment is available statewide.”

Finally, the South Carolina Medicaid program manual for physicians notes that “[p]ractitioners at the distant site who may furnish and receive payment of covered telemedicine services are:

- Physicians
- Nurse practitioners
- Physician Assistants”

South Carolina Department of Health and Human Services, [Physicians Provider Manual](#), sec. 2, pp. 2-45 (June 2017).



SOUTH CAROLINA

CONTROLLED SUBSTANCES

What are the requirements/laws governing the prescribing of “controlled” substances?”

“Physicians and other practitioners who prescribe or order controlled substances for, or administer controlled substances to, patients in a hospital, shall be registered under the provisions of Article 3 of Chapter 53 of Title 44 of the 1976 Code.”

[S.C. CODE ANN. REGS. § 61-4-1902.](#)

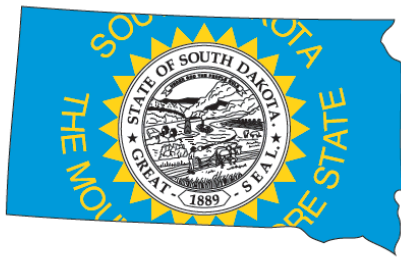
“All prescriptions for controlled substances shall be dated as of the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address, and registration number of the practitioner.

- (a) Written prescriptions. A practitioner shall sign a prescription on the day when issued and in the same manner as he or she would sign a check or legal document (e.g., J. H. Smith or John H. Smith). Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter, or other mechanical means of printing, and shall be manually signed by the practitioner. The prescriptions may be prepared by a secretary or agent for the signature of a practitioner, but the prescribing practitioner is responsible in case the prescription does not conform in all essential respects to the law and regulations. A corresponding liability rests upon the pharmacist who fills a prescription not prepared in the form prescribed by this regulation. . . .
- (b) Electronic prescriptions. Existing DEA regulations provide practitioners with the option of transmitting electronic prescriptions for controlled substances in lieu of paper prescriptions. In an effort to ensure the integrity of these electronic prescriptions, the electronic application shall comply with the current DEA regulations prior to use.”

[S.C. CODE ANN. REGS. § 61-4-1003.](#)

[L]icensees prescribing controlled substances by means of telemedicine must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44”

[S.C. CODE ANN. § 40-47-37\(2\)\(C\)\(6\).](#)



SOUTH DAKOTA

What is the definition of “telemedicine” or “telehealth”?

The South Dakota Medicaid program defines “telemedicine” as “[t]he use of an interactive telecommunications system to provide two-way, real-time, interactive communication between a provider and a Medicaid recipient across a distance. Note: Services are limited.”

[South Dakota Department of Social Services, South Dakota Medicaid: Professional Services Billing Manual \(July 2017\), at 22.](#)

Within the context of South Dakota statutory provisions regarding mental health procedures in criminal justice, the term “telehealth” is defined as “a mode of delivering healthcare services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from health care providers.”

[S.D. CODIFIED LAWS § 23A-50-1\(6\).](#)

Within the context of South Dakota regulations regarding home and community-based services, the term “telehealth services” is defined as “a home based health monitoring system used to collect and transmit an individual’s clinical data for monitoring and interpretation.”

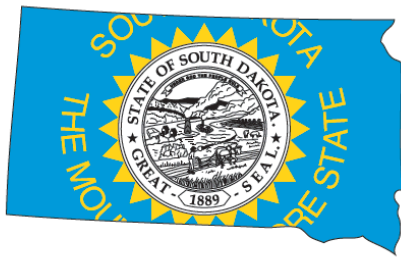
[S.D. ADMIN. R. 67:40:19:01\(21\).](#)

PSYCHIATRISTS

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

The *South Dakota Medicaid Professional Services Billing Manual* states that the acceptable “interactive telecommunications system” for telemedicine is “[m]ultimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the Medicaid recipient and distant site practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the definition of an interactive telecommunications system.”

[South Dakota Department of Social Services, South Dakota Medicaid: Professional Services Billing Manual \(July 2017\), at 22.](#)



SOUTH DAKOTA

PSYCHOLOGISTS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: S.D. ADMIN. R. 20:60:07:01 (from [Association of State & Provincial Psychology Boards, Code of Conduct \(rev. 2005\)](#)).

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

South Dakota Medicaid covers distant site telemedicine services and will reimburse at the same rate as in-person services, for the services listed in the *South Dakota Medicaid Professional Services Billing Manual*.

[South Dakota Department of Social Services, South Dakota Medicaid: Professional Services Billing Manual \(July 2017\), at 22.](#)

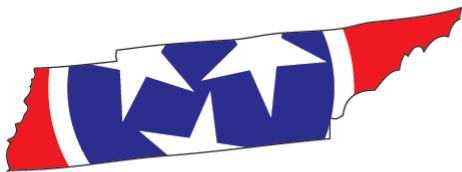
Covered telemedicine services are subject to the same service requirements and limitations as in-person services.

Additionally, originating sites are eligible to receive a facility fee for each completed telemedicine transaction for a covered distant site telemedicine service. South Dakota Medicaid requires that “[a]ll originating sites must be an enrolled provider. Originating sites may not be located in the same community as the distant site unless the originating site is a nursing facility. The following are originating sites approved to bill a facility fee:

- Office of a physician or practitioner;
- Outpatient Hospital;
- Critical Access Hospital;
- Rural Health Clinic (RHC);
- Federally Qualified Health Center (FQHC);
- Indian Health Service (IHS) Clinic;
- Community Mental Health Center (CMHC);
- Nursing Facilities

Claims submitted by a non-eligible originating site will be denied.”

[South Dakota Department of Social Services, South Dakota Medicaid: Professional Services Billing Manual \(July 2017\), at 25.](#)



TENNESSEE

What is the definition of “telemedicine” or “telehealth”?

Under Tennessee’s medical practice regulations, “[t]elemedicine is the practice of medicine using electronic communication, information technology or other means, between a licensee in one location and a patient in another location. Telemedicine is not an audio only telephone conversation, email/instant messaging conversation or fax. It typically involves the application of secure video conferencing or store-and-forward to provide or support healthcare delivery by replicating the interaction of a traditional encounter between a provider and a patient.”

[TENN. COMP. R. & REGS. 0880-02-.16\(1\)\(g\).](#)

The Tennessee insurance statute states that “telehealth”:

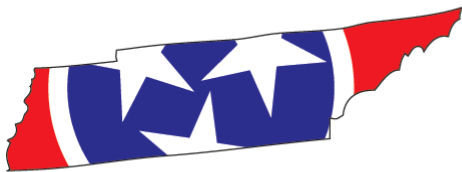
- (A) means the use of real-time, interactive audio, video telecommunications or electronic technology, or store-and-forward telemedicine services by a healthcare services provider to deliver healthcare services to a patient within the scope of practice of the healthcare services provider when:
 - i. Such provider is at a qualified site other than the site where the patient is located; and
 - ii. The patient is at a qualified site, at a school clinic staffed by a healthcare services provider and equipped to engage in the telecommunications described in this section, or at a public elementary or secondary school staffed by a healthcare services provider and equipped to engage in the telecommunications described in this section; and
- (B) Does not include: (i) An audio-only conversation; (ii) An electronic mail message; or (iii) A facsimile transmission. . . .

[TENN. CODE ANN. § 56-7-1002\(a\)\(6\).](#)

What is the definition of “telemental,” “telemental,” and “telepsychiatry”?

Within the Tennessee Psychology Practice Act, “telepsychology” means “the practice of psychology via electronic communications technology by persons licensed under this chapter.”

[TENN. CODE ANN. § 63-11-203\(a\)\(A\)\(viii\).](#)



TENNESSEE

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“No person shall engage in the practice of medicine, either in person or remotely using information transmitted electronically or through other means, on a patient within the state of Tennessee unless duly licensed by the Board in accordance with the provisions of the current statutes and rules. Unless specifically set out in this rule, this rule is not intended to and does not supersede any pre-existing federal or state statutes or rules and is not meant to alter or amend the applicable standard of care in any particular field of medicine or to amend any requirement for the establishment of a physician-patient relationship.”

[TENN. COMP. R. & REGS. 0880-02-.16.](#)

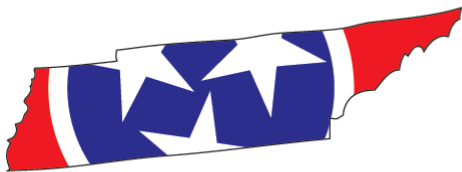
The Board of Medical Examiners revised its telemedicine licensing requirement, which was effective beginning October 31, 2016:

Telemedicine Licenses Issued Under Previous Rule – As of the effective date of this rule, the Board will no longer issue what was previously termed a “telemedicine license.” Individuals previously granted a telemedicine license under the former version of this rule may apply to have the license converted to a full license. Such individuals must complete the application for a full license and provide all necessary documentation, though no new application fee will be required as long as application is made within two years of the effective date of this rule. Individuals who do not convert to a full license (or do not qualify for full licensure) will retain the telemedicine license subject to the following conditions:

(a) The license must be timely renewed on a biennial basis, as required pursuant to Rule 0880-02-.09. Notwithstanding Rule 0880-02-.09, however, licenses not timely renewed will not be subject to re-instatement and affected individuals wishing to engage in the practice of medicine on patients located in Tennessee will be required to make application for a full license, including payment of the application fee.

(b) Telemedicine license holders must maintain current ABMS specialty board-certification. Licensees who do not maintain ABMS specialty board-certification will not be entitled to renewal of the license.

(c) Licensees retaining a telemedicine license are limited to the provision of medical interpretation services in the area of their specialty board-certification. Such license holders do not possess prescriptive authority in Tennessee.



TENNESSEE

(d) All telemedicine licenses are subject to discipline for the same causes and pursuant to the same procedures as active, unrestricted licenses.

[TENN. COMP. R. & REGS. 0880-02-.16\(2\).](#)

However, the following persons are exempt from Tennessee's telemedicine licensure requirement:

(a) Licensed physicians of other states when called in consultation regarding specific clinical or scientific aspects of the field of medicine by a Tennessee licensed/registered physician as provided by T.C.A. § 63-6-204(a)(3);

(b) US Military physicians operating within the Federal jurisdiction and regulations related to their duties as provided by T.C.A. § 63-6-204(a)(3);

(c) The informal practice of medicine between physicians in the form of uncompensated professional dialogue regarding aspects of the field of medicine; and

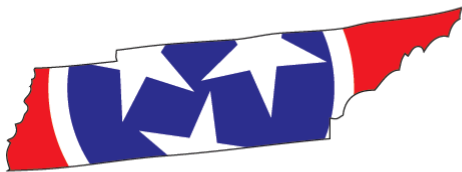
(d) A recognized, highly specialized, licensed physician from another state or country who specializes in the diagnosis and/or treatment of rare or orphan diseases and who provides consultation to research hospitals, with or without compensation or the expectation of compensation.

[TENN. COMP. R. & REGS. 0880-02-.16\(4\).](#)

With respect to transferring medical information outside the state, the Tennessee Medical Practice Act provides that “[t]he transfer of patient medical information to a person in another state who is not licensed to practice medicine or osteopathy in Tennessee, using any electronic, telephonic, or fiber optic means or by any other method, constitutes the practice of medicine or osteopathy if such information is employed to diagnose and/or treat, any person physically located within the state of Tennessee.” The provision further provides that “the transfer of such information does not constitute the practice of medicine if . . . such information is to be used for a second opinion requested by a Tennessee-licensed medical doctor or doctor of osteopathy—provided, however, that no charges are assessed for such second opinion”

[TENN. CODE ANN. § 63-6-231\(a\) and \(b\)\(2\)](#)

See also [TENN. CODE ANN. § 63-6-214\(b\)\(21\)\(A\)](#), which provides that the following may be grounds for license denial, suspension, or revocation, with limited exceptions: “[t]ransferring of patient medical information to a person in another state who is not licensed to practice medicine or osteopathy in the state of Tennessee using any electronic, telephonic or fiber optic means or by any other method if such information is

**TENNESSEE**

employed to diagnose and/or treat persons physically located within the state of Tennessee”

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The Tennessee Board of Medical Examiners has certain requirements for establishing or maintaining the physician-patient relationship via telemedicine:

(6) Notwithstanding the requirements of Rule 0880-02-.14(7), a physician licensed in Tennessee may engage in the practice of telemedicine under the following circumstances:

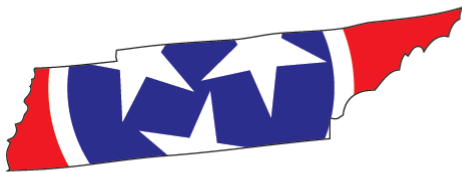
(a) Except as provided under paragraphs seven (7) and eight (8) of this rule, the patient encounter to establish or maintain the physician-patient relationship via telemedicine between the physician in a remote location and the patient in Tennessee may occur with or without the use of a facilitator so long as such encounter is consistent with parts 1 and 2 of this Rule:

1. If no facilitator is present:

- i. The patient must utilize adequately sophisticated technology to enable the remote provider to verify the patient’s identity and location with an appropriate level of confidence; and
- ii. The patient must transmit all relevant health information at the level of store-and-forward technology or secure video conferencing; and
- iii. The remote provider must disclose his or her name, current and primary practice location, medical degree and recognized specialty area, if any, and in accordance with T.C.A. § 63-1-109.

2. If a facilitator is present:

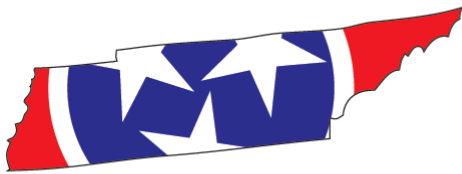
- i. The facilitator must personally verify the identity of the patient; however, all relevant health information must be transmitted to the remote provider using at least the level of store-and-forward technology. The facilitator and the patient may interact with the provider at the remote location via secure video conferencing or store-and-forward technology; and



TENNESSEE

- ii. The facilitator must identify themselves, their role, and their title to the patient and the remote physician; and
 - iii. The remote provider must disclose his or her name, current and primary practice location, medical degree and recognized specialty area, if any, and all additional information required pursuant to T.C.A. § 63-1-109.
- (b) For patient encounters conducted via telemedicine, the physician should have appropriate patient record(s) or be able to obtain such information during the telemedicine encounter.
- (c) The physician engaging in telemedicine is responsible for ensuring that the medical record contains all pertinent data and information gleaned from the encounter. Any physician conducting a patient encounter via telemedicine must so document in the patient record and must state the technology used. All records for Tennessee patients are subject to inspection pursuant to T.C.A. § 63-1-117.
- (d) If the information transmitted through electronic or other means as part of a patient's encounter is not of sufficient quality or does not contain adequate information for the physician to form an opinion, the physician must declare they cannot form an opinion to make an adequate diagnosis and must request direct referral for inspection and actual physical examination, request additional data, or recommend the patient be evaluated by the patient's primary physician or other local health care provider.
- (7) A physician licensed by the Board may, if requested to do so by another physician licensed by the Board, engage in medical interpretation as defined in these rules and render an opinion based on data which is transmitted electronically. In such cases, the physician providing the medical interpretation need not examine the patient and need not have the complete medical record accessible, unless the interpreting physician believes that additional information is necessary. Any opinion rendered by such interpreting physician must be reduced to writing which includes the name and electronic signature of the interpreting physician.
- (8) No patient seeking care via telemedicine who is under the age of eighteen (18) years of age can be treated unless there is a facilitator present, except as otherwise authorized by law.

[TENN. COMP. R. & REGS. 0880-02-.16\(6\)-\(8\).](#)

**TENNESSEE**

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

According to the Tennessee Board of Medical Examiners, a physician may not prescribe controlled substances via telemedicine if the physician has a telemedicine license. The Board further states the following:

A physician who elects to maintain his or her telemedicine license rather than converting to a full and unrestricted medical license may not prescribe. All other physicians with a full and unrestricted medical license may prescribe controlled substances in accordance with Tenn. Comp. R. & Regs. 0880-02-.14(6)(e)(3) and 0880-02-.14(7)(a). This rule requires that a physician, before prescribing or dispensing any drug to any individual by any means, must 1) perform an appropriate history and physical examination; 2) make a diagnosis upon the examinations and all diagnostic and laboratory tests consistent with good medical care; 3) formulate and discuss a therapeutic plan with the patient, as well as the basis for the plan, the risks and benefits of various treatment options; and 4) insure availability of the physician or coverage for the patient for appropriate follow-up care. Exceptions to this general rule are provided in Rule 0880-02-.14(7)(b).

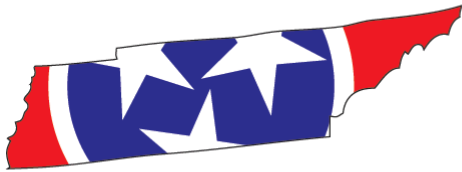
TENN. CODE ANN. § 63-1-155 provides that a healthcare provider who delivers medical services via telemedicine should be held to the same standard of professional practice as a provider working in a traditional, in-person setting. This statute includes with two important caveats: 1) telemedicine encounters will be governed by the [Tennessee Chronic Pain Guidelines](#)—which explicitly prohibit the treatment of chronic pain through telemedicine—; and 2) the general rule of equivalent standards does not apply when medical services are being provided in a pain management clinic.

Federal regulation may limit a physician's ability to prescribe controlled substances electronically without first performing at least one in-person assessment of the patient. Prescribers are encouraged to consult with personal counsel to determine whether their intended prescribing practices violate federal laws or regulation.

[Tennessee Board of Medical Examiners, FAQ: Telemedicine \(Nov. 2016\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

As stated in the definition of “telemedicine” within Tennessee’s medical practice regulations, “[t]elemedicine is not an audio only telephone conversation, email/instant messaging conversation or fax. It typically involves the application of secure video



TENNESSEE

conferencing or store-and-forward to provide or support healthcare delivery by replicating the interaction of a traditional encounter between a provider and a patient.”

[TENN. COMP. R. & REGS. 0880-02-.16\(1\)\(g\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

According to the Tennessee Board of Medical Examiners, “the practice of medicine occurs where the patient is located. The physician and the APRN or PA must be licensed in the state where the patient is located. The supervisory relationship must be in accordance with all applicable rules governing a physician’s supervision of a PA or APRN, including the requirement that the physician visit the remote site at least once every thirty (30) days. This is true even if the PA or APRN’s primary practice setting (i.e., the remote sit) is out of the state of Tennessee, or within its borders, but geographically distant. A remote site visit may not occur via Skype or other videoconferencing technology.”

[Tennessee Board of Medical Examiners, FAQ: Telemedicine \(Nov. 2016\).](#)

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?

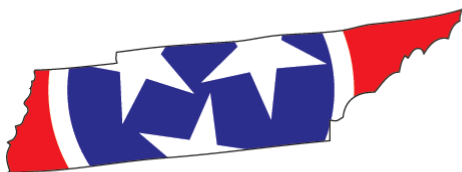
Updated citation: [TENN. CODE ANN. § 33-3-105.](#)

MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

Under Tennessee’s medical practice regulations, “[n]o patient seeking care via telemedicine who is under the age of eighteen (18) years of age can be treated unless there is a facilitator present, except as otherwise authorized by law.”

[TENN. COMP. R. & REGS. 0880-02-.16\(8\).](#)



TENNESSEE

According to the Tennessee Board of Medical Examiners, “[w]hile it may be recommended, it is not required for the facilitator to be present for the entire encounter. A physician should act in accordance with the standard of care and applicable law when deciding whether a facilitator should be present for a patient encounter. However, the facilitator must: personally verify the identity of the patient and must identify themselves, their role and title to the patient.”

[Tennessee Board of Medical Examiners, FAQ: Telemedicine \(Nov. 2016\).](#)

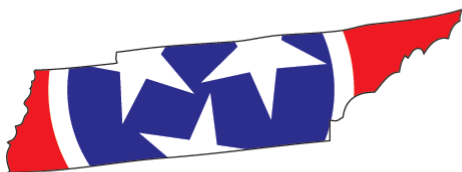
What are the requirements/laws governing the prescribing of “controlled” substances”?

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A physician who elects to maintain his or her telemedicine license rather than converting to a full and unrestricted medical license may not prescribe. All other physicians with a full and unrestricted medical license may prescribe controlled substances in accordance with Tenn. Comp. R. & Regs. 0880-02-.14(6)(e)(3) and 0880-02-.14(7)(a). This rule requires that a physician, before prescribing or dispensing any drug to any individual by any means, must 1) perform an appropriate history and physical examination; 2) make a diagnosis upon the examinations and all diagnostic and laboratory tests consistent with good medical care; 3) formulate and discuss a therapeutic plan with the patient, as well as the basis for the plan, the risks and benefits of various treatment options; and 4) insure availability of the physician or coverage for the patient for appropriate follow-up care. Exceptions to this general rule are provided in Rule 0880-02-.14(7)(b).

TENN. CODE ANN. § 63-1-155 provides that a healthcare provider who delivers medical services via telemedicine should be held to the same standard of professional practice as a provider working in a traditional, in-person setting. This statute includes with two important caveats: 1) telemedicine encounters will be governed by the [Tennessee Chronic Pain Guidelines](#)—which explicitly prohibit the treatment of chronic pain through telemedicine—; and 2) the general rule of equivalent standards does not apply when medical services are being provided in a pain management clinic.

Federal regulation may limit a physician’s ability to prescribe controlled substances electronically without first performing at least one in-person assessment of the patient. Prescribers are encouraged to consult with personal counsel to determine whether their intended prescribing practices violate federal laws or regulation.



TENNESSEE

[Tennessee Board of Medical Examiners, *FAQ: Telemedicine* \(Nov. 2016\).](#)

**TEXAS****What is the definition of “telemedicine” or “telehealth”?**

“Telehealth service’ means a health service, other than a telemedicine medical service, delivered by a health professional licensed, certified, or otherwise entitled to practice in this state and acting within the scope of the health professional’s license, certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology.”

[TEX. OCC. CODE ANN. § 111.001\(3\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

“Telemedicine medical service’ means a health care service delivered by a physician licensed in this state, or a health professional acting under the delegation and supervision of a physician licensed in this state, and acting within the scope of the physician’s or health professional’s license to a patient at a different physical location than the physician or health professional using telecommunications or information technology.”

[TEX. OCC. CODE ANN. § 111.001\(4\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

"Telehealth service" means a health service, other than telemedicine medical service, that is delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

- (A) compressed digital interactive video, audio, or data transmission;
- (B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and
- (C) other technology that facilitates access to health care services or medical specialty expertise.

[TEX. GOV'T CODE ANN. § 531.001\(7\)](#).

"Telemedicine medical service" means a health care service that is initiated by a physician or provided by a health professional acting under physician delegation and supervision, that is provided for purposes of patient assessment by a health



TEXAS

professional, diagnosis or consultation by a physician, or treatment, or for the transfer of medical data, and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

- (A) compressed digital interactive video, audio, or data transmission;
- (B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and
- (C) other technology that facilitates access to health care services or medical specialty expertise.

[TEX. GOV'T CODE ANN. § 531.001\(8\)](#).

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

“A health professional providing a health care service or procedure as a telemedicine medical service or a telehealth service is subject to the standard of care that would apply to the provision of the same health care service or procedure in an in-person setting.”

[TEX. OCC. CODE ANN. § 111.007](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

For purposes of Section 562.056, a valid practitioner-patient relationship is present between a practitioner providing a telemedicine medical service and a patient receiving the telemedicine medical service as long as the practitioner complies with the standard of care described in Section 111.007 and the practitioner:

- (1) has a preexisting practitioner-patient relationship with the patient established in accordance with rules adopted under Section 111.006;
- (2) communicates, regardless of the method of communication, with the patient pursuant to a call coverage agreement established in accordance with

**TEXAS**

Texas Medical Board rules with a physician requesting coverage of medical care for the patient; or

(3) provides the telemedicine medical services through the use of one of the following methods, as long as the practitioner complies with the follow-up requirements in Subsection (b), and the method allows the practitioner to have access to, and the practitioner uses, the relevant clinical information that would be required in accordance with the standard of care described in Section 111.007:

(A) synchronous audiovisual interaction between the practitioner and the patient in another location;

(B) asynchronous store and forward technology, including asynchronous store and forward technology in conjunction with synchronous audio interaction between the practitioner and the patient in another location, as long as the practitioner uses clinical information from:

(i) clinically relevant photographic or video images, including diagnostic images; or

(ii) the patient's relevant medical records, such as the relevant medical history, laboratory and pathology results, and prescriptive histories; or

(C) another form of audiovisual telecommunication technology that allows the practitioner to comply with the standard of care described in Section 111.007.

[TEX. OCC. CODE ANN. § 111.005\(a\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

The Texas Medical Board, the Texas Board of Nursing, the Texas Physician Assistant Board, and the Texas State Board of Pharmacy shall jointly adopt rules that establish the determination of a valid prescription in accordance with Section 111.005. Rules adopted under this section must allow for the establishment of a practitioner-patient relationship by a telemedicine medical service provided by a practitioner to a patient in a manner that complies with Section 111.005(a)(3).

**TEXAS**

[TEX. OCC. CODE ANN. § 111.006\(a\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

(A) synchronous audiovisual interaction between the practitioner and the patient in another location;

(B) asynchronous store and forward technology, including asynchronous store and forward technology in conjunction with synchronous audio interaction between the practitioner and the patient in another location, as long as the practitioner uses clinical information from:

(i) clinically relevant photographic or video images, including diagnostic images; or

(ii) the patient's relevant medical records, such as the relevant medical history, laboratory and pathology results, and prescriptive histories; or

(C) another form of audiovisual telecommunication technology that allows the practitioner to comply with the standard of care described in Section 111.007.

[TEX. OCC. CODE ANN. § 111.005\(a\)\(3\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

"[A] health benefit plan is not required to provide coverage for a telemedicine medical service or a telehealth service provided by only synchronous or asynchronous audio interaction, including:

- (1) an audio-only telephone consultation;
- (2) a text-only e-mail message; or
- (3) a facsimile transmission."

[TEX. INS. CODE ANN. § 1455.004\(c\)](#), as amended by [Texas S.B. 1107](#) (provision to be effective as of Jan. 1, 2018).

"[R]equires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

**TEXAS**

- (A) compressed digital interactive video, audio, or data transmission;
- (B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and
- (C) other technology that facilitates access to health care services or medical specialty expertise.”

[TEX. GOV'T CODE ANN. § 531.001\(7\)-\(8\).](#)

PSYCHOLOGISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“Licensees who provide psychological services through the internet or other remote or electronic means, must provide written notification of their license number and instructions on how to verify the status of a license when obtaining informed consent.”

[22 TEX. ADMIN. CODE § 465.7.](#)

MARRIAGE/FAMILY THERAPISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“A licensee who engages in technology-assisted services must provide the client with the licensee's license number and information on how to contact the board by telephone, electronic communication, or mail. The licensee must comply with all other provisions of this chapter.”

[22 TEX. ADMIN. CODE § 801.44\(g\).](#)

**TEXAS****ADVANCED PRACTICE REGISTERED NURSES (APRNs)****What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

For purposes of Section 562.056, a valid practitioner-patient relationship is present between a practitioner providing a telemedicine medical service and a patient receiving the telemedicine medical service as long as the practitioner complies with the standard of care described in Section 111.007 and the practitioner:

(1) has a preexisting practitioner-patient relationship with the patient established in accordance with rules adopted under Section 111.006;

(2) communicates, regardless of the method of communication, with the patient pursuant to a call coverage agreement established in accordance with Texas Medical Board rules with a physician requesting coverage of medical care for the patient; or

(3) provides the telemedicine medical services through the use of one of the following methods, as long as the practitioner complies with the follow-up requirements in Subsection (b), and the method allows the practitioner to have access to, and the practitioner uses, the relevant clinical information that would be required in accordance with the standard of care described in Section 111.007:

(A) synchronous audiovisual interaction between the practitioner and the patient in another location;

(B) asynchronous store and forward technology, including asynchronous store and forward technology in conjunction with synchronous audio interaction between the practitioner and the patient in another location, as long as the practitioner uses clinical information from:

(i) clinically relevant photographic or video images, including diagnostic images; or

(ii) the patient's relevant medical records, such as the relevant medical history, laboratory and pathology results, and prescriptive histories; or

(C) another form of audiovisual telecommunication technology that allows the practitioner to comply with the standard of care described in Section 111.007.



TEXAS

[TEX. OCC. CODE ANN. § 111.005\(a\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

The Texas Medical Board, the Texas Board of Nursing, the Texas Physician Assistant Board, and the Texas State Board of Pharmacy shall jointly adopt rules that establish the determination of a valid prescription in accordance with Section 111.005. Rules adopted under this section must allow for the establishment of a practitioner-patient relationship by a telemedicine medical service provided by a practitioner to a patient in a manner that complies with Section 111.005(a)(3).

[TEX. OCC. CODE ANN. § 111.006\(a\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

(A) synchronous audiovisual interaction between the practitioner and the patient in another location;

(B) asynchronous store and forward technology, including asynchronous store and forward technology in conjunction with synchronous audio interaction between the practitioner and the patient in another location, as long as the practitioner uses clinical information from:

(i) clinically relevant photographic or video images, including diagnostic images; or

(ii) the patient's relevant medical records, such as the relevant medical history, laboratory and pathology results, and prescriptive histories; or

(C) another form of audiovisual telecommunication technology that allows the practitioner to comply with the standard of care described in Section 111.007.

[TEX. OCC. CODE ANN. § 111.005\(a\)\(3\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*



TEXAS

“[A] health benefit plan is not required to provide coverage for a telemedicine medical service or a telehealth service provided by only synchronous or asynchronous audio interaction, including:

- (1) an audio-only telephone consultation;
- (2) a text-only e-mail message; or
- (3) a facsimile transmission.”

[TEX. INS. CODE ANN. § 1455.004\(c\)](#), as amended by [Texas S.B. 1107](#) (provision to be effective as of Jan. 1, 2018).

“[R]equires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:

- (A) compressed digital interactive video, audio, or data transmission;
- (B) clinical data transmission using computer imaging by way of still-image capture and store and forward; and
- (C) other technology that facilitates access to health care services or medical specialty expertise.”

[TEX. GOV'T CODE ANN. § 531.001\(7\)-\(8\)](#).

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?

Updated citation: [TEX. OCC. CODE ANN. § 111.003](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

If a patient site presenter is not required for the telehealth or telemedicine visit, the software system used by the distant site provider must allow secure authentication of the distant site provider and the client.

If a patient site presenter is required for the telehealth or telemedicine visit, the software system used by both the distant and patient site providers must allow secure authentication of the distant site provider and the client.

**TEXAS**

The physical environments of the client and the distant site provider must ensure that the client's protected health information remains confidential. . . .

[*Texas Health and Human Services, Texas Medicaid Provider Procedures Manual, vol. 2 \(Telecommunication Services Handbook\) \(Sept. 2017\), at 1505.*](#)

MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

"For a child receiving telemedicine medical services in a primary or secondary school-based setting, advance parent or legal guardian consent for a telemedicine medical service must be obtained."

[1 TEX. ADMIN. CODE § 354.1432\(1\)\(D\).](#)

(E) The patient's primary care physician or provider must be notified of a telemedicine medical service, unless the patient does not have a primary care physician or provider.

(i) The patient receiving the telemedicine medical service, or the patient's parent or legal guardian, must consent to the notification.

(ii) For a telemedicine medical service provided to a child in a primary or secondary school-based setting, the notification must include a summary of the service, including:

- (I) exam findings;
- (II) prescribed or administered medications; and
- (III) patient instructions.

[1 TEX. ADMIN. CODE § 354.1432\(1\)\(E\).](#)

(F) If a child receiving a telemedicine medical service in a primary or secondary school-based setting does not have a primary care physician or provider, the child's parent or legal guardian must be offered:

- (i) the information in subparagraph (E)(ii) of this paragraph; and



TEXAS

(ii) a list of primary care physicians or providers from which to select the child's primary care physician or provider.

[1 TEX. ADMIN. CODE § 354.1432\(1\)\(F\).](#)

(G) Telemedicine medical services provided in a school-based setting by a physician, even if the physician is not the patient's primary care physician or provider, are reimbursed if:

- (i) the physician is enrolled as a Medicaid provider;
- (ii) the patient is a child who receives the service in a primary or secondary school-based setting;
- (iii) the parent or legal guardian of the patient provides consent before the service is provided; and
- (iv) a health professional as defined by Texas Government Code §531.0217(a)(1) is present with the patient during the treatment.

[1 TEX. ADMIN. CODE § 354.1432\(1\)\(G\).](#)

A parent or responsible adult may be physically located in the patient site or distant site environment during a telehealth or telemedicine visit with a child. A parent or responsible adult must provide written or verbal consent to the distant site provider to allow any other individual, other than the distant site provider, the patient site presenter, or a representative of the distant site provider or patient site presenter, to be physically present in the distant or patient site environment during a telehealth or telemedicine visit with a child.

[Texas Health and Human Services, Texas Medicaid Provider Procedures Manual, vol. 2 \(Telecommunication Services Handbook\) \(Sept. 2017\), at 1505.](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

A practitioner who provides telemedicine medical services to a patient as described in Subsection (a)(3) shall:

- (1) provide the patient with guidance on appropriate follow-up care; and

**TEXAS**

(2) if the patient consents and the patient has a primary care physician, provide to the patient's primary care physician within 72 hours after the practitioner provides the services to the patient a medical record or other report containing an explanation of the treatment provided by the practitioner to the patient and the practitioner's evaluation, analysis, or diagnosis, as appropriate, of the patient's condition.

[TEX. OCC. CODE ANN. § 111.005\(b\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

Are there requirements regarding the time frame in which a follow up face-to-face encounter would be required in a telemental/telebehavioral/telepsychiatric health setting?
If so, what are those requirements?

A practitioner who provides telemedicine medical services to a patient as described in Subsection (a)(3) shall:

(1) provide the patient with guidance on appropriate follow-up care; and

(2) if the patient consents and the patient has a primary care physician, provide to the patient's primary care physician within 72 hours after the practitioner provides the services to the patient a medical record or other report containing an explanation of the treatment provided by the practitioner to the patient and the practitioner's evaluation, analysis, or diagnosis, as appropriate, of the patient's condition.

[TEX. OCC. CODE ANN. § 111.005\(b\)](#), as amended by [Texas S.B. 1107](#) (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

**TEXAS****COVERAGE & REIMBURSEMENT**

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

“A health benefit plan may not exclude from coverage a health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service or a telehealth care service solely because the covered health care services is not provided through an in-person consultation.”

[TEX. INS. CODE ANN. § 1455.044\(a\)](#), as amended by [Texas S.B. 1107](#) (provision to be effective as of Jan. 1, 2018).

[A] health benefit plan is not required to provide coverage for a telemedicine medical service or a telehealth service provided by only synchronous or asynchronous audio interaction, including:

- (1) an audio-only telephone consultation;
- (2) a text-only e-mail message; or
- (3) a facsimile transmission.

[TEX. INS. CODE ANN. § 1455.044\(c\)](#), as amended by [Texas S.B. 1107](#) (provision to be effective as of Jan. 1, 2018).

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

A health benefit plan may require a deductible, a copayment, or coinsurance for a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service or a telehealth service. The amount of the deductible, copayment, or coinsurance may not exceed the amount of the deductible, copayment, or coinsurance required for the covered health care service or procedure provided through an in-person consultation.

[TEX. INS. CODE ANN. § 1455.044\(b\)](#), as amended by [Texas S.B. 1107](#) (provision to be effective as of Jan. 1, 2018).

**TEXAS**

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

“Telemedicine medical services and telehealth services are a benefit under the Texas Medicaid program as provided in this section and are subject to the specifications, conditions, limitations, and requirements established by the Texas Health and Human Services Commission or its designee (HHSC).”

Conditions for reimbursement applicable to telemedicine medical services.

(A) The telemedicine medical services must be designated for reimbursement by HHSC. Telemedicine medical services designated for reimbursement include:

- (i) consultations;
- (ii) office or other outpatient visits;
- (iii) psychiatric diagnostic interviews;
- (iv) pharmacologic management;
- (v) psychotherapy; and
- (vi) data transmission.

(B) The services must be provided in compliance with 22 TAC Chapter 174 (relating to Telemedicine).

(C) The patient site must be:

- (i) an established medical site;
- (ii) a state mental health facility; or
- (iii) a state supported living center.

[1 TEX. ADMIN. CODE § 354.1432\(1\).](#)

Conditions for reimbursement applicable to telehealth services.

(A) The telehealth services must be designated for reimbursement by HHSC. Designated telehealth services will be listed in the Texas Medicaid Provider Procedures Manual.

**TEXAS**

(B) The services must be provided in compliance with standards established by the respective licensing or certifying board of the professional providing the services.

(C) The patient site must be:

- (i) an established health site;
- (ii) a state mental health facility; or
- (iii) a state supported living center.

(D) The patient site presenter must be readily available for telehealth services. However, if the telehealth services relate only to mental health, a patient site presenter does not have to be readily available except when the patient may be a danger to himself or to others.

(E) Before receiving a telehealth service, the patient must receive an initial evaluation for the same diagnosis or condition by a physician or other qualified healthcare professional licensed in Texas.

(i) A required initial evaluation must be performed in-person or as a telemedicine visit that conforms to 22 TAC Chapter 174 (relating to Telemedicine).

(ii) If the patient is receiving the telehealth services to treat a mental health diagnosis or condition, the patient is not required to receive an initial evaluation.

(F) A patient receiving telehealth services must be evaluated at least annually by a physician or other healthcare professional licensed in Texas and qualified to determine if the patient has a continued need for services.

(i) The evaluation must be performed in-person or as a telemedicine visit that conforms to 22 TAC Chapter 174.

(ii) This evaluation requirement does not apply to a patient receiving telehealth services for the treatment of a mental health diagnosis or condition from a qualified behavioral health provider licensed in Texas.

(G) Both the distant site provider and the patient site presenter must maintain the records created at each site unless the distant site provider maintains the records in an electronic health record format.

(H) Written telehealth policies and procedures must be maintained and evaluated at least annually by both the distant site provider and the patient site presenter and must address:

**TEXAS**

- (i) patient privacy to assure confidentiality and integrity of patient telehealth services;
- (ii) archival and retrieval of patient service records; and
- (iii) quality oversight mechanisms.

[1 TEX. ADMIN. CODE § 354.1432\(2\).](#)

Conditions for reimbursement applicable to both telemedicine medical services and telehealth services.

(A) Preventive health visits under Texas Health Steps (THSteps), also known as Early and Periodic Screening, Diagnosis and Treatment program, are not reimbursed if performed using telemedicine medical services or telehealth services. Health care or treatment provided using telemedicine medical services or telehealth services after a THSteps preventive health visit for conditions identified during a THSteps preventive health visit may be reimbursed.

(B) Documentation in the patient's medical record for a telemedicine medical service or a telehealth service must be the same as for a comparable in-person evaluation.

(C) Providers of telemedicine medical services and telehealth services must maintain confidentiality of protected health information (PHI) as required by 42 CFR Part 2, 45 CFR Parts 160 and 164, chapters 111 and 159 of the Occupations Code, and other applicable federal and state law.

(D) Providers of telemedicine medical services and telehealth services must comply with the requirements for authorized disclosure of PHI relating to patients in state mental health facilities and residents in state supported living centers, which are included in, but not limited to, 42 CFR Part 2, 45 CFR Parts 160 and 164, Health and Safety Code § 611.004, and other applicable federal and state law.

(E) Telemedicine medical services and telehealth services are reimbursed in accordance with Chapter 355 of this title (relating to Reimbursement Rates).

[1 TEX. ADMIN. CODE § 354.1432\(3\).](#)

Updated link: [Texas Health and Human Services, Texas Medicaid Provider Procedures Manual, vol. 2 \(Telecommunication Services Handbook\) \(Sept. 2017\), at 1505.](#)



UTAH

What is the definition of “telemedicine” or “telehealth”?

Utah defines “digital health service” to mean “the electronic transfer, exchange, or management of related data for diagnosis, treatment, consultation, educational, public health, or other related purposes.”

[UTAH CODE ANN. § 26-9f-102\(2\).](#)

The recently enacted Utah Telehealth Act (effective as of May 2017) defines “telehealth services” to mean “the transmission of health-related services or information through the use of electronic communication or information technology.”

[UTAH CODE ANN. § 26-60-102\(7\).](#)

Additionally, the Utah Telehealth Act defines “telemedicine services” to mean “telehealth services:

- (a) including:
 - (i) clinical care;
 - (ii) health education;
 - (iii) health administration;
 - (iv) home health; or
 - (v) facilitation of self-managed care and caregiver support; and
- (b) provided by a provider to a patient through a method of communication that:
 - (i) (A) uses asynchronous store and forward transfer; or (B) uses synchronous interaction; and
 - (ii) meets industry security and privacy standards, including compliance with: (A) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended; and (B) the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.”

[UTAH CODE ANN. § 26-60-102\(8\).](#)

Furthermore, the *Utah Medicaid Provider Manual* defines “telemedicine” as “two-way, real-time interactive communication between the member and the physician or authorized provider at the distant site. This electronic communication uses interactive telecommunications equipment that includes, at a minimum, audio and video equipment.”

[Utah Department of Health, Division of Medicaid and Health Financing, Utah Medicaid Provider Manual, Section I \(General Information\), 8-4.2 \(July 2017\).](#)



UTAH

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

The recently enacted Utah Telehealth Act (effective as of May 2017) provides the following requirements regarding the scope of telehealth practice:

A provider offering telehealth services shall:

- (a) at all times:
 - (i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and
 - (ii) be held to the same standards of practice as those applicable in traditional health care settings;
- (b) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:
 - (i) obtaining from the patient or another provider the patient's relevant clinical history; and
 - (ii) documenting the patient's relevant clinical history and current symptoms;
- (c) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;
- (d) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated; and
- (e) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records.

[UTAH CODE ANN. § 26-60-103\(1\).](#)

Additionally, it is considered unprofessional conduct when a mental health professional who provides services remotely fails to:

- practice according to professional standards of care in the delivery of services remotely;
- protect the security of electronic, confidential data and information; or



UTAH

- appropriately store and dispose of electronic, confidential data and information.

[UTAH ADMIN. CODE r. 156-60-502.](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [UTAH CODE ANN. § 58-67-305.](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

The recently enacted Utah Telehealth Act (effective as of May 2017) provides that “in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after: (i) obtaining from the patient or another provider the patient’s relevant clinical history; and (ii) documenting the patient’s relevant clinical history and current symptoms.”

[UTAH CODE ANN. § 26-60-103\(1\)\(b\).](#)

PSYCHOLOGISTS

What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

The recently enacted Utah Telehealth Act (effective as of May 2017) provides the following requirements regarding the scope of telehealth practice:

A provider offering telehealth services shall:

- (a) at all times:
 - (i) act within the scope of the provider’s license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and
 - (ii) be held to the same standards of practice as those applicable in traditional health care settings;
- (b) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:



UTAH

- (i) obtaining from the patient or another provider the patient's relevant clinical history; and
- (ii) documenting the patient's relevant clinical history and current symptoms;
- (c) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;
- (d) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated; and
- (e) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records.

[UTAH CODE ANN. § 26-60-103\(1\).](#)

Additionally, it is considered unprofessional conduct when a mental health professional who provides services remotely fails to:

- practice according to professional standards of care in the delivery of services remotely;
- protect the security of electronic, confidential data and information; or
- appropriately store and dispose of electronic, confidential data and information.

[UTAH ADMIN. CODE r. 156-60-502.](#)

SOCIAL WORKERS

What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

The recently enacted Utah Telehealth Act (effective as of May 2017) provides the following requirements regarding the scope of telehealth practice:

A provider offering telehealth services shall:

- (a) at all times:
 - (i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and
 - (ii) be held to the same standards of practice as those applicable in traditional health care settings;



UTAH

- (b) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:
- (i) obtaining from the patient or another provider the patient's relevant clinical history; and
 - (ii) documenting the patient's relevant clinical history and current symptoms;
- (c) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;
- (d) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated; and
- (e) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records.

[UTAH CODE ANN. § 26-60-103\(1\).](#)

Additionally, it is considered unprofessional conduct when a mental health professional who provides services remotely fails to:

- practice according to professional standards of care in the delivery of services remotely;
- protect the security of electronic, confidential data and information; or
- appropriately store and dispose of electronic, confidential data and information.

[UTAH ADMIN. CODE r. 156-60-502.](#)

COUNSELORS

What are the restrictions on the scope of practice
for counselors practicing via telemedicine/telehealth?

The recently enacted Utah Telehealth Act (effective as of May 2017) provides the following requirements regarding the scope of telehealth practice:

A provider offering telehealth services shall:

- (a) at all times:



UTAH

- (i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and
 - (ii) be held to the same standards of practice as those applicable in traditional health care settings;
- (b) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:
- (i) obtaining from the patient or another provider the patient's relevant clinical history; and
 - (ii) documenting the patient's relevant clinical history and current symptoms;
- (c) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;
- (d) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated; and
- (e) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records.

[UTAH CODE ANN. § 26-60-103\(1\).](#)

Additionally, it is considered unprofessional conduct when a mental health professional who provides services remotely fails to:

- practice according to professional standards of care in the delivery of services remotely;
- protect the security of electronic, confidential data and information; or
- appropriately store and dispose of electronic, confidential data and information.

[UTAH ADMIN. CODE r. 156-60-502.](#)

MARRIAGE/FAMILY THERAPISTS

What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

The recently enacted Utah Telehealth Act (effective as of May 2017) provides the following requirements regarding the scope of telehealth practice:



UTAH

A provider offering telehealth services shall:

- (a) at all times:
 - (i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and
 - (ii) be held to the same standards of practice as those applicable in traditional health care settings;
- (b) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:
 - (i) obtaining from the patient or another provider the patient's relevant clinical history; and
 - (ii) documenting the patient's relevant clinical history and current symptoms;
- (c) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;
- (d) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated; and
- (e) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records.

[UTAH CODE ANN. § 26-60-103\(1\).](#)

Additionally, it is considered unprofessional conduct when a mental health professional who provides services remotely fails to:

- practice according to professional standards of care in the delivery of services remotely;
- protect the security of electronic, confidential data and information; or
- appropriately store and dispose of electronic, confidential data and information.

[UTAH ADMIN. CODE r. 156-60-502.](#)



UTAH

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

The recently enacted Utah Telehealth Act (effective as of May 2017) provides the following requirements regarding the scope of telehealth practice:

A provider offering telehealth services shall:

- (a) at all times:
 - (i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and
 - (ii) be held to the same standards of practice as those applicable in traditional health care settings;
- (b) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:
 - (i) obtaining from the patient or another provider the patient's relevant clinical history; and
 - (ii) documenting the patient's relevant clinical history and current symptoms;
- (c) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;
- (d) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated; and
- (e) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records.

[UTAH CODE ANN. § 26-60-103\(1\).](#)

Additionally, it is considered unprofessional conduct when a mental health professional who provides services remotely fails to:

- practice according to professional standards of care in the delivery of services remotely;
- protect the security of electronic, confidential data and information; or



UTAH

- appropriately store and dispose of electronic, confidential data and information.

[UTAH ADMIN. CODE r. 156-60-502.](#)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Updated link: [UTAH CODE ANN. § 58-31d-103.](#)

The recently enacted Utah Telehealth Act (effective as of May 2017) provides that “in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after: (i) obtaining from the patient or another provider the patient’s relevant clinical history; and (ii) documenting the patient’s relevant clinical history and current symptoms.”

[UTAH CODE ANN. § 26-60-103\(1\)\(b\).](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

“A provider offering telehealth services shall be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice.”

[UTAH CODE ANN. § 26-60-103\(1\)\(c\).](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

“The [Utah] Medicaid program shall reimburse for personal mental health therapy office visits provided through telemedicine services at a rate set by the Medicaid program.”

[UTAH CODE ANN. § 26-18-13.5\(3\).](#)



UTAH

Covered services may be delivered by means of telemedicine, as clinically appropriate. Services include, but are not limited to, consultation services, evaluation and management services, mental health services, and substance use disorder services.

Limitations

- Telemedicine encounters must comply with HIPAA privacy and security measures to ensure that all patient communications and records, including recordings of telemedicine encounters, are secure and remain confidential. The provider is responsible for determining if the encounter is HIPAA compliant. Security measures for transmission may include password protection, encryption, and other reliable authentication techniques.
- Compliance with the Utah Health Information Network (UHIN) Standards for Telehealth must be maintained. These standards provide a uniform standard of billing for claims and encounters delivered via telehealth.
- The provider at the originating site receives no additional reimbursement for the use of telemedicine.

[Utah Department of Health, Division of Medicaid and Health Financing, Utah Medicaid Provider Manual, Section I \(General Information\), 8-4.2 \(July 2017\).](#)



VERMONT

What is the definition of “telemedicine” or “telehealth”?

According to a policy published in May 2015 by the Vermont Board of Medical Practice, the term “[t]elemedicine” means the practice of medicine using electronic communications, information technology or other means between a licensee in one location, and a patient in another location with or without an intervening healthcare provider. Generally, telemedicine is not an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It typically involves the application of secure videoconferencing or store and forward technology to provide or support healthcare delivery by replicating the interaction of a traditional, encounter in person between a provider and a patient.”

[Vermont Board of Medical Practice, *Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* \(May 2015\), at 4 \(citation omitted\).](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

According to a policy published in May 2015 by the Vermont Board of Medical Practice, “[a] physician must be licensed, or under the jurisdiction, of the medical board of the state where the patient is located. The practice of medicine occurs where a patient is located at the time telemedicine technologies are used. Physicians who treat or prescribe through online services sites are practicing medicine and must possess appropriate licensure in all jurisdictions where patients receive care.”

[Vermont Board of Medical Practice, *Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* \(May 2015\), at 5 \(citation omitted\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A health care provider delivering health care services through telemedicine shall obtain and document a patient’s oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.”

[VT. STAT. ANN. tit. 18, § 9361\(c\)\(1\).](#)



VERMONT

A policy published in May 2015 by the Vermont Board of Medical Practice states the following:

The health and well-being of patients depends upon a collaborative effort between the physician and patient. The relationship between the physician and patient is complex and is based on the mutual understanding of the shared responsibility for the patient's health care. Although the Board recognizes that it may be difficult in some circumstances to precisely define the beginning of the physician-patient relationship, particularly when the physician and patient are in separate locations, in most cases formation of the relationship starts when an individual with a health-related matter seeks assistance from a physician who may provide assistance. The relationship is fully established when, through words or actions, the physician agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an encounter in person between the physician (or other appropriately supervised health care practitioner) and patient.

The physician-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that physicians recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a physician-patient relationship. Use of electronic means to provide medical care does not diminish the obligations that arise upon formation of the physician-patient relationship. Vermont law makes it unprofessional conduct to prescribe or dispense medication, furnish medical services or to provide prescription-only devices without taking necessary steps to verify the patient's identity, establish a documented diagnosis through the use of accepted medical practices, and maintain an appropriate record. 26 V.S.A. § 1354(a)(33). Also, in that Vermont recognizes the requirement that a physician must be licensed in the jurisdiction where the patient is located at the time that medical care is delivered, another inherent obligation is to determine the location of a patient when a physician is rendering services through electronic means in order to confirm appropriate licensure. Likewise, it is an inherent obligation for a physician to disclose to the patient the physician's identity and credentials, regardless of how care is delivered. Another obligation that applies equally when care is provided through telemedicine is the need to obtain informed consent after all appropriate disclosures, including any special disclosures that might arise because of the use of telemedicine technologies.

Based upon the foregoing concepts relating to the physician-patient relationship and licensure requirements, a physician is discouraged from rendering medical advice and/or care using telemedicine technologies without (1) fully verifying and authenticating the location and, to the extent possible, identifying the requesting patient; (2) disclosing and validating the provider's identity and applicable



VERMONT

credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine technologies. An appropriate physician-patient relationship has not been established when the identity of the physician may be unknown to the patient. Where appropriate, a patient must be able to select an identified physician for telemedicine services, not be assigned to a physician at random, and have access to follow-on care.

[Vermont Board of Medical Practice, *Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* \(May 2015\), at 3-4 \(citations omitted\).](#)

PSYCHOLOGISTS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A health care provider delivering health care services through telemedicine shall obtain and document a patient’s oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.”

[VT. STAT. ANN. tit. 18, § 9361\(c\)\(1\).](#)

SOCIAL WORKERS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A health care provider delivering health care services through telemedicine shall obtain and document a patient’s oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.”

[VT. STAT. ANN. tit. 18, § 9361\(c\)\(1\).](#)



VERMONT

COUNSELORS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A health care provider delivering health care services through telemedicine shall obtain and document a patient’s oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.”

[VT. STAT. ANN. tit. 18, § 9361\(c\)\(1\).](#)

MARRIAGE/FAMILY THERAPISTS

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A health care provider delivering health care services through telemedicine shall obtain and document a patient’s oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.”

[VT. STAT. ANN. tit. 18, § 9361\(c\)\(1\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A health care provider delivering health care services through telemedicine shall obtain and document a patient’s oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.”

[VT. STAT. ANN. tit. 18, § 9361\(c\)\(1\).](#)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this State may prescribe, dispense, or administer



VERMONT

drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient in person, through telemedicine, or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider-patient settings. . . .

[VT. STAT. ANN. tit. 18, § 9361\(a\).](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

A policy published in May 2015 by the Vermont Board of Medical Practice states the following:

Physicians should meet or exceed applicable federal and state legal requirements of medical/health information privacy, including compliance with the Health Insurance Portability and Accountability Act (HIPAA) and state privacy, confidentiality, security, and medical retention rules. Physicians are referred to “Standards for Privacy of Individually Identifiable Health Information,” issued by the Department of Health and Human Services (HHS). Guidance documents are available on the HHS Office for Civil Rights Web site at: www.hhs.gov/ocr/hipaa.

Written policies and procedures should be maintained at the same standard as traditional face-to-face encounters for documentation, maintenance, and transmission of the records of the encounter using telemedicine technologies. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the physician addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Sufficient privacy and security measures must be in place and documented to assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient e-mail, prescriptions, and laboratory results must



VERMONT

be secure within existing technology (i.e. password protected, encrypted electronic prescriptions, or other reliable authentication techniques). All patient-physician email, as well as other patient-related electronic communications, should be stored and filed in the patient's medical record, consistent with traditional record-keeping policies and procedures.

[Vermont Board of Medical Practice, *Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* \(May 2015\), at 7 \(citations omitted\).](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

A policy published in May 2015 by the Vermont Board of Medical Practice states the following:

Patients should be able to seek, with relative ease, follow-up care or information from the physician [or physician's designee] who conducts an encounter using telemedicine technologies. Physicians solely providing services using telemedicine technologies with no existing physician-patient relationship prior to the encounter must make documentation of the encounter using telemedicine technologies easily available to the patient, and subject to the patient's consent, any identified care provider of the patient immediately after the encounter.

[Vermont Board of Medical Practice, *Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* \(May 2015\), at 6.](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

(a) All health insurance plans in this State shall provide coverage for telemedicine services delivered to a patient in a health care facility to the same extent that the services would be covered if they were provided through in-person consultation.

**VERMONT**

(b) A health insurance plan may charge a deductible, co-payment, or coinsurance for a health care service provided through telemedicine so long as it does not exceed the deductible, co-payment, or coinsurance applicable to an in-person consultation.

(c) A health insurance plan may limit coverage to health care providers in the plan's network and may require originating site health care providers to document the reason the services are being provided by telemedicine rather than in person.

(d) Nothing in this section shall be construed to prohibit a health insurance plan from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's policy.

(e) A health insurance plan may reimburse for teleophthalmology or teledermatology provided by store and forward means and may require the distant site health care provider to document the reason the services are being provided by store and forward means.

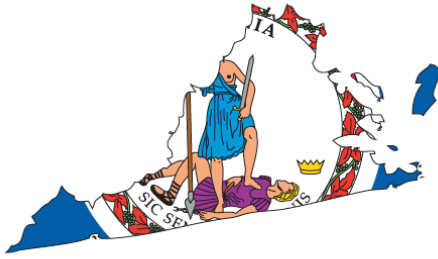
(f) Nothing in this section shall be construed to require a health insurance plan to reimburse the distant site health care provider if the distant site health care provider has insufficient information to render an opinion.

(g) In order to facilitate the use of telemedicine in treating substance use disorder, health insurers and the Department of Vermont Health Access shall ensure that both the treating clinician and the hosting facility are reimbursed for the services rendered, unless the health care providers at both the host and service sites are employed by the same entity.

[VT. STAT. ANN. tit. 8, § 4100k\(a\)-\(g\).](#)

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Updated citation: [Vermont Agency of Human Services, Department of Vermont Health Access, Green Mountain Care Provider Manual, § 10.3.53 \(Aug. 24, 2017\), at 104-105.](#)



VIRGINIA

What is the definition of “telemedicine” or “telehealth”?

Related to insurance coverage, the term “telemedicine services” means “the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient’s diagnosis or treatment. ‘Telemedicine services’ does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.”

[VA. CODE ANN. § 38.2-3418.16\(B\).](#)

“‘Telehealth’ means the real time or near real time two-way transfer of data and information using an interactive audio and video connection for the purposes of medical diagnosis and treatment.”

[12 VA. ADMIN. CODE § 30-121-70\(B\)\(7\)\(b\).](#)

“‘Telemedicine’ means the practice of the medical arts via electronic means rather than face-to-face.”

[12 VA. ADMIN. CODE § 30-130-5020.](#)

PSYCHIATRISTS

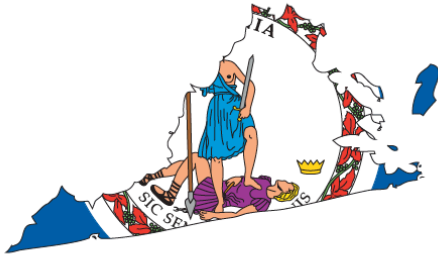
What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

Updated citation: [Virginia Board of Medicine, Guidance Document no. 85-12, Telemedicine \(revised June 22, 2017\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“[A] practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care.”

[Virginia Board of Medicine, Guidance Document no. 85-12, Telemedicine \(revised June 22, 2017\).](#)



VIRGINIA

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

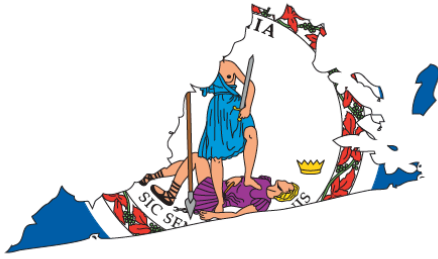
[Virginia Board of Medicine, Guidance Document no. 85-12, *Telemedicine* \(revised June 22, 2017\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

[Virginia Board of Medicine, Guidance Document no. 85-12, *Telemedicine* \(revised June 22, 2017\).](#)

Prescribing controlled substances requires the establishment of a bona fide practitioner-patient relationship in accordance with § 54.1-3303 (A) of the Code of Virginia. Prescribing controlled substances, in-person or via telemedicine services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via telemedicine services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and



VIRGINIA

the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe controlled substances as part of telemedicine encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Prescribing controlled substances in Schedule II through V via telemedicine also requires compliance with federal rules for the practice of telemedicine. Practitioners issuing prescriptions as part of telemedicine services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

[Virginia Board of Medicine, Guidance Document no. 85-12, *Telemedicine* \(revised June 22, 2017\).](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

Equipment utilized for telemedicine must be of sufficient audio quality and visual clarity as to be functionally equivalent to a face-to-face encounter for professional medical services. Staff must be proficient in the operation and use of the telemedicine equipment. Telephone calls, e-mail, facsimile transmissions and similar electronic measure are not considered part of the telemedicine coverage and are not to be billed to DMAS.

[Virginia Department of Medical Assistance Services, *Physician/Practitioner Manual: Covered Services and Limitations* \(ch. IV\) \(revised June 30, 2017\), at 16.](#)

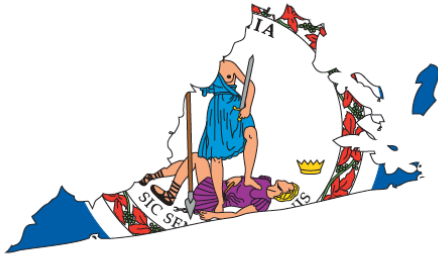
PSYCHOLOGISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified, but a license to practice psychology is required.

"In order to engage in the practice of applied psychology, school psychology, or clinical psychology, it shall be necessary to hold a license."

[VA. CODE ANN. § 54.1-3606\(A\).](#)



VIRGINIA

Updated link: [VA. CODE ANN. § 54.1-3601\(7\).](#)

Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

Updated link: [VA. CODE ANN. § 54.1-3602.](#)

COUNSELORS

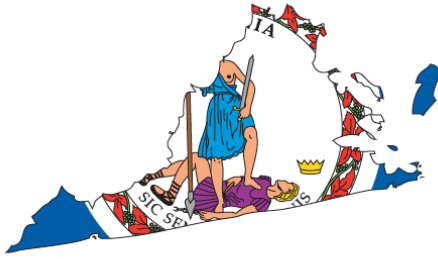
What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.

Therefore, the standards of practice set forth in section 130 of the regulations and in the Code of Virginia apply regardless of the method of delivery. The Board of Counseling recommends the following when a licensee uses technology-assisted counseling as the delivery method:

1. Counseling is most commonly offered in a *face-to-face relationship*. *Counseling that from the outset is delivered in a technology-assisted manner may be problematic in that the counseling relationship, client identity and other issues may be compromised.*
2. *The counselor must take steps to protect client confidentiality and security.*
3. *The counselor should seek training or otherwise demonstrate expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and security.*
4. *When working with a client who is not in Virginia, counselors are advised to check the regulations of the state board in which the client is located. It is important to be mindful that certain states prohibit counseling by an individual who is unlicensed by that state.*
5. Counselors must follow the same code of ethics for technology-assisted counseling as they do in a traditional counseling setting.

[Virginia Board of Counseling, Guidance Document no. 115-1.4, Guidance on Technology-Assisted Counseling and Technology-Assisted Supervision \(revised Nov. 13, 2015\).](#)



VIRGINIA

MARRIAGE/FAMILY THERAPISTS

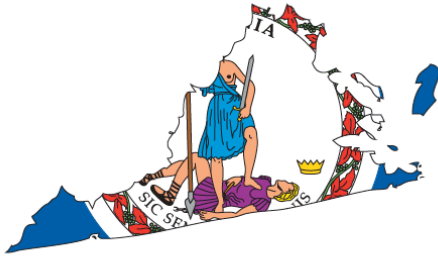
What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.

Therefore, the standards of practice set forth in section 130 of the regulations and in the Code of Virginia apply regardless of the method of delivery. The Board of Counseling recommends the following when a licensee uses technology-assisted counseling as the delivery method:

1. Counseling is most commonly offered in a *face-to-face relationship*. *Counseling that from the outset is delivered in a technology-assisted manner may be problematic in that the counseling relationship, client identity and other issues may be compromised.*
2. *The counselor must take steps to protect client confidentiality and security.*
3. *The counselor should seek training or otherwise demonstrate expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and security.*
4. *When working with a client who is not in Virginia, counselors are advised to check the regulations of the state board in which the client is located. It is important to be mindful that certain states prohibit counseling by an individual who is unlicensed by that state.*
5. Counselors must follow the same code of ethics for technology-assisted counseling as they do in a traditional counseling setting.

[Virginia Board of Counseling, Guidance Document no. 115-1.4, Guidance on Technology-Assisted Counseling and Technology-Assisted Supervision \(revised Nov. 13, 2015\).](#)



VIRGINIA

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

“[S]ome situations and patient presentations are appropriate for the utilization of telemedicine services as a component of, or in lieu of, in-person provision of medical care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care.”

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

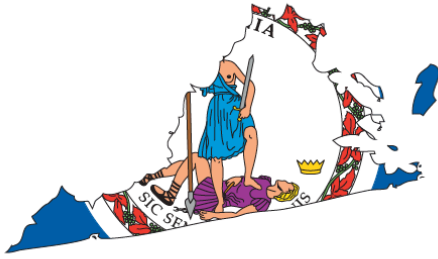
It is the expectation of the Board that practitioners who provide medical care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;
- In the case of physicians, properly supervise non-physician clinicians when required to do so by statute; and
- Protect patient confidentiality.

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

The practice of medicine occurs where the patient is located at the time telemedicine services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.



VIRGINIA

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Where an existing practitioner-patient relationship is not present, a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law. While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.

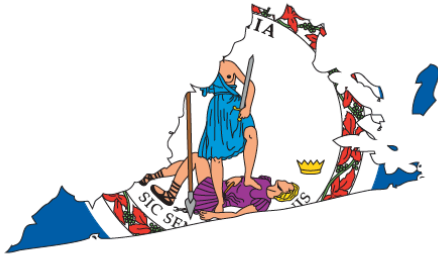
A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

For the purpose of prescribing controlled substances, a practitioner using telemedicine services in the provision of medical services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303. A practitioner should conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation.

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)



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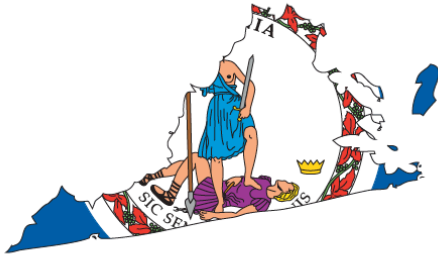
A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

Prescribing controlled substances requires the establishment of a bona fide practitioner-patient relationship in accordance with § 54.1-3303 (A) of the Code of Virginia. Prescribing controlled substances, in-person or via telemedicine services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via telemedicine services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe controlled substances as part of telemedicine encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Prescribing controlled substances in Schedule II through V via telemedicine also requires compliance with federal rules for the practice of telemedicine. Practitioners issuing prescriptions as part of telemedicine services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)



VIRGINIA

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

“Telemedicine services’ does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.”

[Virginia Board of Nursing, Guidance Document no. 90-64, Telemedicine for Nurse Practitioners \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\) \(emphasis in original\).](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telemedicine services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

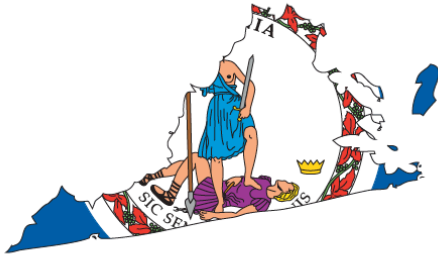
[Virginia Board of Medicine, Guidance Document no. 85-12, Telemedicine \(revised June 22, 2017\).](#)

[Virginia Board of Nursing, Guidance Document no. 90-64, Telemedicine for Nurse Practitioners \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

Updated link: [VA. CODE ANN. § 54.1-3303.](#)



VIRGINIA

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Updated citation: [Virginia Department of Medical Assistance Services, Physician/Practitioner Manual: Billing Instructions \(ch. V\) \(revised May 1, 2017\), at 23-25.](#)

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

Updated link: [VA. CODE ANN. § 54.1-3401.](#)

What are the requirements/laws governing the prescribing of “controlled” substances”?

Updated link: [VA. CODE ANN. § 54.1-3303.](#)



WASHINGTON

What is the definition of “telemedicine” or “telehealth”?

“Telemedicine is when a health care practitioner uses HIPAA-compliant, interactive, real-time audio and video telecommunications (including web-based applications) or store and forward technology to deliver covered services that are within his or her scope of practice to a client at a site other than the site where the provider is located. If the service is provided through store and forward technology, there must be an associated office visit between the client and the referring health care provider.”

[WASH. ADMIN. CODE § 182-531-1730\(1\)](#).

What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

“Telepsychology’ is the delivery of psychological services using telecommunications technologies.”

[Wisconsin Department of Health, Office of Health Professions and Facilities, Examining Board of Psychology, *Telepsychology* \(Jan. 29, 2016\), at 1.](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Link no longer exists: [Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, *Guidelines for Appropriate Use of the Internet in Medical Practice* \(eff. Oct. 2002\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Link no longer exists: [Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, *Guidelines for Appropriate Use of the Internet in Medical Practice* \(eff. Oct. 2002\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?



WASHINGTON

Link no longer exists: Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, *Guidelines for Appropriate Use of the Internet in Medical Practice* (eff. Oct. 2002).

PSYCHOLOGISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“Psychologists utilizing telepsychology on patients-clients in Washington State must be licensed to practice psychology in Washington State or have a temporary permit to practice psychology in Washington State. Washington State licensed psychologists are encouraged to be familiar with and comply with relevant laws and regulations when providing telepsychology services to patients-clients across state and international borders.”

[Wisconsin Department of Health, Office of Health Professions and Facilities, Examining Board of Psychology, *Telepsychology* \(Jan. 29, 2016\), at 2.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Psychologists [must] obtain and document informed consent that specifically addresses the concerns that may be related to the telepsychology services they provide. Such informed consent should be developed so it is reasonably understandable to clients-patients. Informed consent may include, but is not limited to:

- (a) The manner in which the psychologist and client-patient will use particular telecommunications technologies, the boundaries that will be established and observed, and procedures for responding to electronic communications from clients-patients;
- (b) Issues and potential risks surrounding confidentiality and security of client-patient information when particular telecommunication technologies are used (e.g., potential for decreased expectation of confidentiality if certain technologies are used);
- (c) Limitations on the availability and/or appropriateness of specific telepsychology services that may be hindered as a result of the services being offered remotely.



WASHINGTON

[Wisconsin Department of Health, Office of Health Professions and Facilities, Examining Board of Psychology, *Telepsychology* \(Jan. 29, 2016\), at 2.](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

“Psychologists practicing telepsychology [must] take reasonable steps to protect and maintain the confidentiality of data and information relating to their clients-patients. When necessary, psychologists consult with technology experts to augment their knowledge of telecommunications technologies in order to apply adequate security measures in their practices that will protect and maintain the confidentiality of data and information related to their patients-clients.”

[Wisconsin Department of Health, Office of Health Professions and Facilities, Examining Board of Psychology, *Telepsychology* \(Jan. 29, 2016\), at 2.](#)

Link no longer exists: [Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, *Guidelines for Appropriate Use of the Internet in Medical Practice* \(eff. Oct. 2002\).](#)

COVERAGE & REIMBURSEMENT

Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

(1) A health plan offered to employees and their covered dependents under this chapter issued or renewed on or after January 1, 2017, shall reimburse a provider for a health care service provided to a covered person through telemedicine or store and forward technology if: (a) The plan provides coverage of the health care service when provided in person by the provider; (b) The health care service is medically necessary; and (c) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2017.

(2)(a) If the service is provided through store and forward technology there must be an associated office visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit. (b) For purposes of this section, reimbursement of store and



WASHINGTON

forward technology is available only for those covered services specified in the negotiated agreement between the health plan and health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a: (a) Hospital; (b) Rural health clinic; (c) Federally qualified health center; (d) Physician's or other health care provider's office; (e) Community mental health center; (f) Skilled nursing facility; or (g) Renal dialysis center, except an independent renal dialysis center.

(4) Any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the health plan. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) The plan may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) The plan may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require the plan to reimburse: (a) An originating site for professional fees; (b) A provider for a health care service that is not a covered benefit under the plan; or (c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

[WASH. REV. CODE § 41.05.700 \(effective until Jan. 1, 2018\).](#)

(1) For health plans issued or renewed on or after January 1, 2017, a health carrier shall reimburse a provider for a health care service provided to a covered person through telemedicine [or] store and forward technology if: (a) The plan provides coverage of the health care service when provided in person by the provider; (b) The health care service is medically necessary; and (c) The health care service is a service recognized as an essential health benefit under section 1302(b) of the federal patient protection and affordable care act in effect on January 1, 2017.

(2)(a) If the service is provided through store and forward technology there must be an associated office visit between the covered person and the referring health care provider. Nothing in this section prohibits the use of telemedicine for the associated office visit. (b) For purposes of this section, reimbursement of store and



WASHINGTON

forward technology is available only for those covered services specified in the negotiated agreement between the health carrier and the health care provider.

(3) An originating site for a telemedicine health care service subject to subsection (1) of this section includes a: (a) Hospital; (b) Rural health clinic; (c) Federally qualified health center; (d) Physician's or other health care provider's office; (e) Community mental health center; (f) Skilled nursing facility; or (g) Renal dialysis center, except an independent renal dialysis center.

(4) Any originating site under subsection (3) of this section may charge a facility fee for infrastructure and preparation of the patient. Reimbursement must be subject to a negotiated agreement between the originating site and the health carrier. A distant site or any other site not identified in subsection (3) of this section may not charge a facility fee.

(5) A health carrier may not distinguish between originating sites that are rural and urban in providing the coverage required in subsection (1) of this section.

(6) A health carrier may subject coverage of a telemedicine or store and forward technology health service under subsection (1) of this section to all terms and conditions of the plan in which the covered person is enrolled, including, but not limited to, utilization review, prior authorization, deductible, copayment, or coinsurance requirements that are applicable to coverage of a comparable health care service provided in person.

(7) This section does not require a health carrier to reimburse: (a) An originating site for professional fees; (b) A provider for a health care service that is not a covered benefit under the plan; or (c) An originating site or health care provider when the site or provider is not a contracted provider under the plan.

[WASH. REV. CODE § 48.43.735 \(effective until Jan. 1, 2018\).](#)

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Updated link: [Washington State Health Care Authority, Washington Apple Health \(Medicaid\), Physician-Related Services/Health Care Professional Services Billing Guide \(Apr. 2017\), at 77-79.](#)



WEST VIRGINIA

What is the definition of “telemedicine” or “telehealth”?

Updated link: [West Virginia Department of Health and Human Resources, Medicaid Provider Manual, ch. 519.17 Telehealth Services \(eff. Jan. 15, 2016\).](#)

“‘Telemedicine’ means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication, or other means of interaction between a physician or podiatrist in one location and a patient in another location, with or without an intervening healthcare provider.”

[W. VA. CODE § 30-3-13a\(a\)\(4\).](#)

“For purposes of Medicaid, telemedicine seeks to improve a patient's health by permitting two-way, real time interactive communication between the patient, and the physician or practitioner at the distant site. This electronic communication means the use of interactive telecommunications equipment that includes, at a minimum, audio and video equipment.”

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch. 200 \(Nov. 1, 2016\), at 19.](#)

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

A physician or podiatrist using telemedicine technologies to practice medicine or podiatry shall:

- (1) Verify the identity and location of the patient;
- (2) Provide the patient with confirmation of the identity and qualifications of the physician or podiatrist;
- (3) Provide the patient with the physical location and contact information of the physician;
- (4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms to the standard of care;



WEST VIRGINIA

- (5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine or podiatry is to be rendered;
- (6) Obtain from the patient appropriate consent for the use of telemedicine technologies;
- (7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation; and
- (8) Create and maintain healthcare records for the patient which justify the course of treatment and which verify compliance with the requirements of this section. . . .

[W. VA. CODE § 30-3-13a\(d\).](#)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“It is unlawful for any person who does not hold an active, unexpired license issued pursuant to this article to engage in the practice of telemedicine within this state. . . .”

[W. VA. CODE § 30-3-13\(b\).](#)

- (1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.
- (2) A physician or podiatrist who practices telemedicine must be licensed as provided in this article.
- (3) This section does not apply to: (A) An informal consultation or second opinion, at the request of a physician or podiatrist who is licensed to practice medicine or podiatry in this state, provided that the physician or podiatrist requesting the opinion retains authority and responsibility for the patient’s care; and (B) Furnishing of medical assistance by a physician or podiatrist in case of an emergency or disaster, if no charge is made for the medical assistance.

[W. VA. CODE § 30-3-13a\(b\).](#)

West Virginia has adopted the Interstate Medical Licensure Compact.

[W. VA. CODE § 30-1C-1 et seq.](#)

**WEST VIRGINIA****What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

(1) A physician-patient or podiatrist-patient relationship may not be established through: (A) Audio-only communication; (B) Text-based communications such as e-mail, internet questionnaires, text-based messaging or other written forms of communication; or (C) Any combination thereof.

(2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient or podiatrist-patient relationship may only be established: (A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient or podiatrist-patient encounter; or (B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient or podiatrist-patient relationship has been established, either through an in-person encounter or in accordance with subsection (c)(2) of this section, the physician or podiatrist may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

[W. VA. CODE § 30-3-13a\(c\).](#)

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

(1) A physician or podiatrist who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act.

(2) A physician or podiatrist may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of treatment for chronic non-malignant pain solely based upon a telemedicine encounter.

[W. VA. CODE § 30-3-13a\(g\).](#)

**WEST VIRGINIA**

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

(1) A physician-patient or podiatrist-patient relationship may not be established through: (A) Audio-only communication; (B) Text-based communications such as e-mail, internet questionnaires, text-based messaging or other written forms of communication; or (C) Any combination thereof.

(2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient or podiatrist-patient relationship may only be established: (A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient or podiatrist-patient encounter; or (B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient or podiatrist-patient relationship has been established, either through an in-person encounter or in accordance with subsection (c)(2) of this section, the physician or podiatrist may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

[W. VA. CODE § 30-3-13a\(c\).](#)

PSYCHOLOGISTS

What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

“The provider at the distant site is responsible to maintain standards of care within the scope of practice.”

“The provider who has the ultimate responsibility for the care of the patient must first obtain verbal and written consent from the recipient, including as listed below:

- The right to withdraw at any time
- A description of the risks, benefits and consequences of telemedicine
- Application of all existing confidentiality protections



WEST VIRGINIA

- Right of the patient to documentation regarding all transmitted medical information
- Prohibition of dissemination of any patient images or information to other entities without further written consent.”

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch. 521 \(Apr. 1, 2015\), at 9.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Updated link: [W. VA. CODE R. § 17-3-6.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

Updated link: [West Virginia Board of Examiners of Psychologists, Policy Statements: Tele-Psychology.](#)

Minimum equipment standards are transmission speeds of 256kbps or higher over ISDN (Integrated Services Digital Network) or proprietary network connections including VPNs (Virtual Private Networks), fractional T1, or T1 comparable cable bandwidths. Software that has been developed for the specific use of Telehealth may be used as long as the software is HIPAA Compliant and abides by a federal code pertaining to Telehealth.

The audio, video, and/or computer telemedicine system used must, at a minimum, have the capability of meeting the procedural definition of the code provided through telemedicine. The telecommunication equipment must be of a quality to complete adequately all necessary components to document the level of service for the CPT codes that are available to be billed. If a peripheral diagnostic scope is required to assess the patient, it must provide adequate resolution or audio quality for decision-making.

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch. 521 \(Apr. 1, 2015\), at 9.](#)

“Reimbursement is not available for a telephone conversation, electronic mail message (e-mail), or facsimile transmission (fax) between a provider and a member.”



WEST VIRGINIA

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch. 521 \(Apr. 1, 2015\), at 9.](#)

SOCIAL WORKERS

What is the regulatory body in the state that governs the practice of social work?

Updated link: [West Virginia Board of Social Work](#)

What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

“The provider at the distant site is responsible to maintain standards of care within the scope of practice.”

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch.537 \(July 1, 2015\), at 9.](#)

“The provider who has the ultimate responsibility for the care of the patient must first obtain verbal and written consent from the recipient, including as listed below:

- The right to withdraw at any time
- A description of the risks, benefits and consequences of telemedicine
- Application of all existing confidentiality protections
- Right of the patient to documentation regarding all transmitted medical information
- Prohibition of dissemination of any patient images or information to other entities without further written consent.”

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch.537 \(July 1, 2015\), at 9.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

Minimum equipment standards are transmission speeds of 256kbps or higher over ISDN (Integrated Services Digital Network) or proprietary network connections including VPNs (Virtual Private Networks), fractional T1, or T1 comparable cable bandwidths. Software that has been developed for the specific use of Telehealth



WEST VIRGINIA

may be used as long as the software is HIPAA Compliant and abides by a federal code pertaining to Telehealth.

The audio, video, and/or computer telemedicine system used must, at a minimum, have the capability of meeting the procedural definition of the code provided through telemedicine. The telecommunication equipment must be of a quality to complete adequately all necessary components to document the level of service for the CPT codes that are available to be billed. If a peripheral diagnostic scope is required to assess the patient, it must provide adequate resolution or audio quality for decision-making.

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch.537 \(July 1, 2015\), at 8-9.](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician or podiatrist and the patient, consistent with the laws and legislative rules governing patient healthcare records. All laws governing the confidentiality of healthcare information and governing patient access to medical records shall apply to records of practice of medicine or podiatry provided through telemedicine technologies. A physician or podiatrist solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the patient's consent, to any identified care provider of the patient.

[W. VA. CODE § 30-3-13a\(f\).](#)

CONTROLLED SUBSTANCES

What are the requirements/laws governing the prescribing of "controlled" substances?"

(1) A physician or podiatrist who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act.



WEST VIRGINIA

(2) A physician or podiatrist may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of treatment for chronic non-malignant pain solely based upon a telemedicine encounter.

[W. VA. CODE § 30-3-13a\(g\).](#)



WISCONSIN

What is the definition of “telemedicine” or “telehealth”?

“‘[T]elemedicine’ means the practice of medicine when patient care, treatment, or services are provided through the use of medical information exchanged from one site to another via electronic communications. Telemedicine does not include the provision of health care services only through an audio-only telephone, email messages, text messages, facsimile transmission, mail or parcel service, or any combination thereof.”

[WIS. ADMIN. CODE MED. § 24.02.](#)

“Telemedicine services (also known as ‘Telehealth’) are services provided from a remote location using a combination of interactive video, audio, and externally acquired images through a networking environment between a member (i.e., the originating site) and a Medicaid-enrolled provider at a remote location (i.e., distant site). The services must be of sufficient audio and visual fidelity and clarity as to be functionally equivalent to a face-to-face contact. Telemedicine services do not include telephone conversations or Internet-based communication between providers or between providers and members.

All applicable HIPAA (Health Information Portability and Accountability Act of 1996) confidentiality requirements apply to telemedicine encounters.”

[Wisconsin Medicaid Manual, Physician, Claims, Topic #510 \(Telemedicine\) \(Feb. 29, 2016\), at 134.](#)

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“A physician who uses telemedicine in the diagnosis and treatment of a patient located in this state shall be licensed to practice medicine and surgery by the medical examining board.”

[WIS. ADMIN. CODE MED. § 24.04.](#)

“Out-of-state providers, except border-status providers, are required to obtain [prior authorization or “PA”] before delivering telemedicine-based services to Wisconsin Medicaid members.”

[Wisconsin Medicaid Manual, Physician, Claims, Topic #510 \(Telemedicine\) \(Feb. 29, 2016\), at 135.](#)



WISCONSIN

Wisconsin has enacted the Interstate Medical Licensure Compact.

[WIS. STAT. §§ 448.980 and .981.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“A physician-patient relationship may be established through telemedicine.”

[WIS. ADMIN. CODE MED. § 24.03.](#)

(1) When a physician uses a website to communicate to a patient located in this state, the physician may not provide treatment recommendations, including issuing a prescription, unless the following requirements are met: (a) The physician shall be licensed to practice medicine and surgery by the medical examining board as required under s. Med 24.04. (b) The physician's name and contact information have been made available to the patient. (c) Informed consent as required under s. 448.30, Stats., and ch. Med 18. (d) A documented patient evaluation has been performed. A patient evaluation shall include a medical history and, to the extent required to meet or exceed the standard of minimally competent medical practice, an examination or evaluation, or both, and diagnostic tests. (e) A patient health care record is prepared and maintained as required under ch. Med 21.

(2) Providing treatment recommendations, including issuing a prescription, based only on a static electronic questionnaire does not meet the standard of minimally competent medical practice.

[WIS. ADMIN. CODE MED. § 24.07.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

“Telemedicine does not include the provision of health care services only through an audio-only telephone, email messages, text messages, facsimile transmission, mail or parcel service, or any combination thereof.”

[WIS. ADMIN. CODE MED. § 24.02.](#)

“The equipment and technology used by the physician to provide health care services by telemedicine shall provide, at a minimum, information that will enable the physician to meet or exceed the standard of minimally competent medical practice.”



WISCONSIN

[WIS. ADMIN. CODE MED. § 24.06.](#)

“Telemedicine services do not include telephone conversations or Internet-based communication between providers or between providers and members.”

[Wisconsin Medicaid Manual, Physician, Claims, Topic #510 \(Telemedicine\) \(Feb. 29, 2016\), at 134.](#)

PSYCHOLOGISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“A psychologist who is licensed by another state or territory of the United States or a foreign country or province whose standards, in the opinion of the board, are equivalent to or higher than than [sic] the requirements for licensure as a psychologist in s. 455.04 (1), Stats., may offer services as a psychologist in this state for not more than 60 working days in any year without holding a license issued under s. 455.04 (1), Stats.”

[WIS. ADMIN. CODE PSY. § 2.14\(2\).](#)

“The psychologist shall report to the board the nature and extent of his or her practice in this state if it exceeds 20 working days within a year.”

[WIS. ADMIN. CODE PSY. § 2.14\(3\).](#)

“A psychologist provides psychological services in this state whenever the patient or client is located in this state regardless of where the psychologist is located.”

[WIS. ADMIN. CODE PSY. § 2.14\(4\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

The following resource no longer exists: [Wisconsin Board of Nursing, Board of Nursing Position Statements \(rev. Sept. 12, 2013\).](#)



WISCONSIN

Wisconsin has adopted a nurse licensure compact. However, “[t]his compact does not affect additional requirements imposed by states for advanced practice registered nursing. However, a multistate licensure privilege to practice registered nursing granted by a party state shall be recognized by other party states as a license to practice registered nursing if one is required by state law as a precondition for qualifying for advanced practice registered nurse authorization.”

[Wis. STAT. § 441.50\(3\)\(d\).](#)

PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

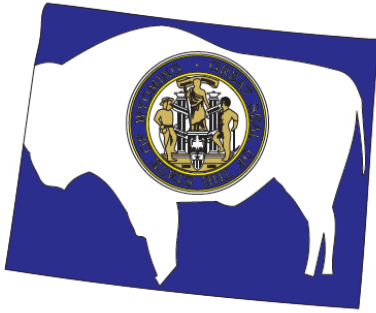
“All applicable HIPAA (Health Information Portability and Accountability Act of 1996) confidentiality requirements apply to telemedicine encounters.”

[Wisconsin Medicaid Manual, Physician, Claims, Topic #510 \(Telemedicine\) \(Feb. 29, 2016\), at 134.](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Updated link: [Wisconsin Medicaid Manual, Physician, Claims, Topic #510 \(Telemedicine\) \(Feb. 29, 2016\), at 134.](#)



WYOMING

What is the definition of “telemedicine” or “telehealth”?

“Telehealth is the use of an electronic media to link beneficiaries with health professionals in different locations. The examination of the client is performed via a real time interactive audio and video telecommunications system. This means that the client must be able to see and interact with the off-site practitioner at the time services are provided via telehealth technology.”

[Wyoming Department of Health, Division of Healthcare Financing, CMS 1500 ICD-10, § 6.24 \(Apr. 1, 2017\), at 108.](#)

“‘Telehealth’ means the delivery of healthcare services using electronic communications, information technology or other means between a healthcare provider in one location, and a patient in another location with or without an intervening healthcare provider. Generally, telehealth is not an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It typically involves the application of secure videoconferencing or store-and-forward technology to provide or support healthcare delivery by replicating the interaction of a traditional, encounter in person between a provider and a patient.”

[Wyoming Healthcare Licensing Boards, Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare, § 3 \(2016\), at 3.](#)

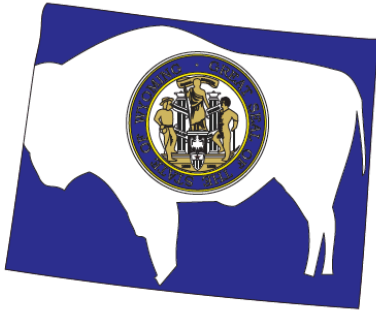
PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Updated link: [Wyoming Board of Medicine Rules & Regulations, ch. 1, sec. 7.](#)

Any physician rendering medical diagnosis and/or treatment to a person physically present in this state must have a license issued by the board when such diagnosis/treatment is rendered, regardless of the physician’s location and regardless of the means by which such diagnosis / treatment is rendered. This requirement shall not apply to an out-of-state physician who consults by telephone, electronic or any other means with an attending physician licensed by this board or to an out-of-state physician who is specifically exempt from licensure pursuant to W.S. 33-26-103.

[052-0001-1 WYO. CODE R. § 4\(e\).](#)



WYOMING

“Providers who treat or prescribe through online services sites are practicing healthcare and must possess appropriate licensure in all jurisdictions where patients are located and receive care.”

[Wyoming Healthcare Licensing Boards, *Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare*, § 4 \(2016\), at 3.](#)

Wyoming has adopted the Interstate Medical Licensure Compact.

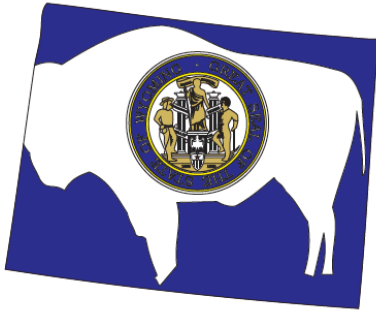
[WYO. STAT. ANN. § 33-26-701 et seq.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Although the Boards recognize that it may be difficult in some circumstances to precisely define the beginning of the provider-patient relationship, particularly when the provider and patient are in separate locations, it tends to begin when an individual with a health-related matter seeks assistance from a provider who may provide assistance. However, the relationship is clearly established when the provider agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an encounter in person between the provider (or other appropriately supervised healthcare practitioner) and patient. . . .

A provider should not render healthcare advice and/or care using telehealth technologies without (1) fully verifying and authenticating the location and identity of the requesting patient; (2) disclosing and validating the provider’s identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telehealth technologies. An appropriate provider-patient relationship has not been established when the identity and credentials, including license status, of the provider may be unknown to the patient. Except in exigent circumstances, a patient must be able to select an identified provider for telehealth services and not be assigned to a provider at random.

[Wyoming Healthcare Licensing Boards, *Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare*, § 2 \(2016\), at 2.](#)



WYOMING

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

“Treatment, including issuing a prescription, based solely on an online questionnaire does not meet the standard of care.”

[Wyoming Healthcare Licensing Boards, *Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare*, § 4 \(2016\), at 4.](#)

Telehealth technologies, where prescribing may be contemplated, must implement measures to uphold patient safety in the absence of traditional physical examination. Such measures should guarantee that the identity of the patient and provider is clearly established and that detailed documentation for the clinical evaluation and resulting prescription is both enforced and independently kept. Measures to assure informed, accurate, and error prevention prescribing practices (e.g. integration with e-Prescription systems) are encouraged.

[Wyoming Healthcare Licensing Boards, *Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare*, § 4 \(2016\), at 6.](#)

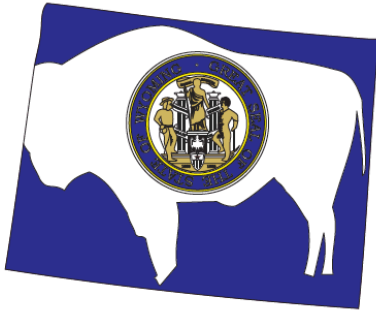
The indication, appropriateness, and safety considerations for each telehealth visit prescription must be evaluated by the provider in accordance with current standards of practice and consequently carry the same professional accountability as prescriptions delivered during an encounter in person. However, where such measures are upheld, and the appropriate clinical consideration is carried out and documented, providers may exercise their judgment and prescribe medications as part of telehealth encounters.

[Wyoming Healthcare Licensing Boards, *Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare*, § 4 \(2016\), at 6-7.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

“Telehealth does not include a telephone conversation, electronic mail message (email), or facsimile transmission (fax) between a healthcare practitioner and a patient.”

[Wyoming Department of Health, Division of Healthcare Financing, *CMS 1500 ICD-10*, § 6.24.2 \(Apr. 1, 2017\), at 110.](#)



WYOMING

“The examination of the client is performed via a real time interactive audio and video telecommunications system. This means that the client must be able to see and interact with the off-site practitioner at the time services are provided via telehealth technology.”

[Wyoming Department of Health, Division of Healthcare Financing, CMS 1500 ICD-10, § 6.24 \(Apr. 1, 2017\), at 108.](#)

“Generally, telehealth is not an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It typically involves the application of secure videoconferencing or store-and-forward technology to provide or support healthcare delivery by replicating the interaction of a traditional, encounter in person between a provider and a patient.”

[Wyoming Healthcare Licensing Boards, Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare, § 3 \(2016\), at 3.](#)

PSYCHOLOGISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

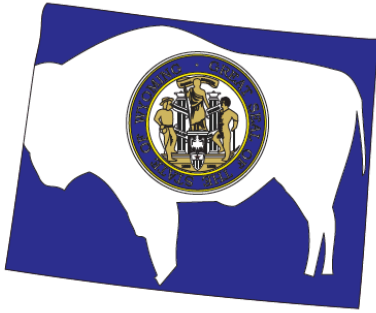
“Providers who treat or prescribe through online services sites are practicing healthcare and must possess appropriate licensure in all jurisdictions where patients are located and receive care.”

[Wyoming Healthcare Licensing Boards, Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare, § 4 \(2016\), at 3.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“Providers who treat or prescribe through online services sites are practicing healthcare and must possess appropriate licensure in all jurisdictions where patients are located and receive care.”

[Wyoming Healthcare Licensing Boards, Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare, § 4 \(2016\), at 3.](#)



WYOMING

What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?

“Providers who treat or prescribe through online services sites are practicing healthcare and must possess appropriate licensure in all jurisdictions where patients are located and receive care.”

[Wyoming Healthcare Licensing Boards, *Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare*, § 4 \(2016\), at 3.](#)

SOCIAL WORKERS

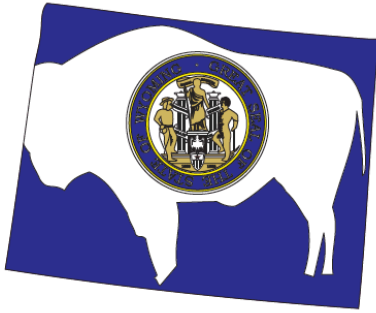
What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

- (a) The practice of a Certified Social Worker may be either face-to-face that involves the synchronous interaction between an individual or groups of individuals using what is seen and heard in person to communicate, or
- (b) Via methods of electronic delivery that involves the use of electronic or other means (e.g. telephone, computers, etc.) to provide the service.
- (i) When using electronic delivery means, all use must be in compliance with all professional ethical standards and all other requirements in these rules;
 - (ii) Special care should be taken to ensure the confidentiality and security of the provision of services; and
 - (iii) The Certified Social Worker shall provide only those services that are legal within the state that the recipient of services lives.

[078-0001-6 WYO. CODE R. § 1.](#)

These same criteria are applicable to Licensed Clinical Social Workers.

[078-0001-9 WYO. CODE R. § 1.](#)



WYOMING

What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?

The practice of social work may be done “[v]ia methods of electronic delivery that involves the use of electronic or other means (e.g. telephone, computers, etc.) to provide the service.

- (i) When using electronic delivery means, all use must be in compliance with all professional ethical standards and all other requirements in these rules;
- (ii) Special care should be taken to ensure the confidentiality and security of the provision of services; and
- (iii) The Certified Social Worker shall provide only those services that are legal within the state that the recipient of services lives.”

[078-0001-6 WYO. CODE R. § 1\(b\).](#)

COUNSELORS

What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

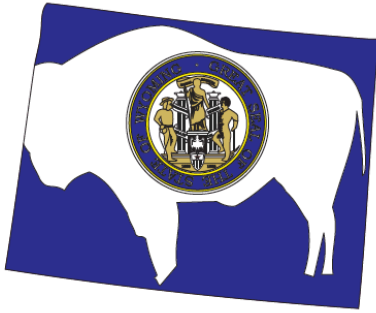
The same criteria applicable to social workers apply to Licensed Professional Counselors.

[078-0001-11 WYO. CODE R. § 1.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of counseling via telemedicine/telehealth that meet the standard of care for the state?

The practice of counseling may be done “[v]ia methods of electronic delivery that involves the use of electronic or other means (e.g. telephone, computers, etc.) to provide the service.

- (i) When using electronic delivery means, all use must be in compliance with all professional ethical standards and all other requirements in these rules;
- (ii) Special care should be taken to ensure the confidentiality and security of the provision of services; and
- (iii) The Certified Social Worker shall provide only those services that are legal within the state that the recipient of services lives.”



WYOMING

[078-0001-11 WYO. CODE R. § 1\(b\).](#)

MARRIAGE/FAMILY THERAPISTS

What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

The same criteria applicable to social workers apply to Licensed Marriage and Family Therapists.

[078-0001-10 WYO. CODE R. § 1.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of marriage/family therapy via telemedicine/telehealth that meet the standard of care for the state?

The practice of marriage/family therapy may be done “[v]ia methods of electronic delivery that involves the use of electronic or other means (e.g. telephone, computers, etc.) to provide the service.

- (i) When using electronic delivery means, all use must be in compliance with all professional ethical standards and all other requirements in these rules;
- (ii) Special care should be taken to ensure the confidentiality and security of the provision of services; and
- (iii) The Certified Social Worker shall provide only those services that are legal within the state that the recipient of services lives.”

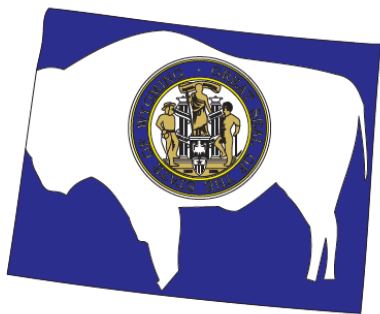
[078-0001-10 WYO. CODE R. § 1\(b\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Wyoming has adopted the Advanced Practice Registered Nurse Compact.

[WYO. STAT. ANN. § 33-21-134.](#)



WYOMING

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The same criteria applicable to physicians apply to APRNs:

Although the Boards recognize that it may be difficult in some circumstances to precisely define the beginning of the provider-patient relationship, particularly when the provider and patient are in separate locations, it tends to begin when an individual with a health-related matter seeks assistance from a provider who may provide assistance. However, the relationship is clearly established when the provider agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an encounter in person between the provider (or other appropriately supervised healthcare practitioner) and patient. . . .

A provider should not render healthcare advice and/or care using telehealth technologies without (1) fully verifying and authenticating the location and identity of the requesting patient; (2) disclosing and validating the provider's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telehealth technologies. An appropriate provider-patient relationship has not been established when the identity and credentials, including license status, of the provider may be unknown to the patient. Except in exigent circumstances, a patient must be able to select an identified provider for telehealth services and not be assigned to a provider at random.

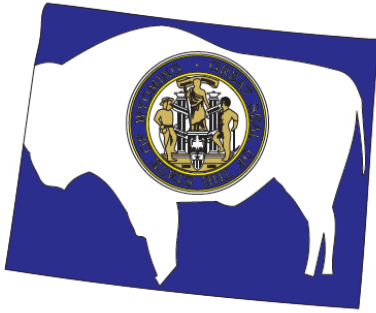
[Wyoming Healthcare Licensing Boards, *Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare*, § 2 \(2016\), at 2.](#)

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

The same criteria applicable to physicians apply to APRNs:

“Telehealth does not include a telephone conversation, electronic mail message (email), or facsimile transmission (fax) between a healthcare practitioner and a patient.”

[Wyoming Department of Health, Division of Healthcare Financing, *CMS 1500 ICD-10*, § 6.24.2 \(Apr. 1, 2017\), at 110.](#)



WYOMING

“The examination of the client is performed via a real time interactive audio and video telecommunications system. This means that the client must be able to see and interact with the off-site practitioner at the time services are provided via telehealth technology.”

[Wyoming Department of Health, Division of Healthcare Financing, CMS 1500 ICD-10, § 6.24 \(Apr. 1, 2017\), at 108.](#)

“Generally, telehealth is not an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It typically involves the application of secure videoconferencing or store-and-forward technology to provide or support healthcare delivery by replicating the interaction of a traditional, encounter in person between a provider and a patient.”

[Wyoming Healthcare Licensing Boards, Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare, § 3 \(2016\), at 3.](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

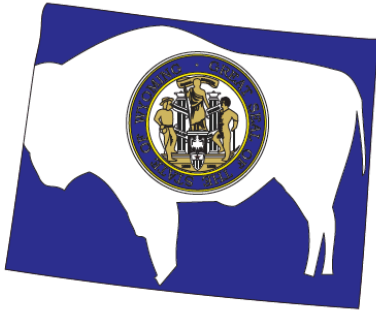
Patients should be able to seek, with relative ease, follow-up care or information from the provider [or provider’s designee] who conducts an encounter using telehealth technologies. Providers solely providing services using telehealth technologies with no existing provider-patient relationship prior to the encounter must make documentation of the encounter using telehealth technologies easily available to the patient, and subject to the patient’s consent, any identified care provider of the patient immediately after the encounter.

[Wyoming Healthcare Licensing Boards, Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare, § 4 \(2016\), at 4.](#)

COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

A medical professional is not required to be present with the client at the originating site unless medically indicated. However, in order to be reimbursed, services provided must be appropriate and medically necessary. Physicians/practitioners eligible to bill for professional services are:



WYOMING

- Physician
- Advanced Practice Nurse with specialty of Psychiatry/Mental Health
- Physician's Assistant (billed under the supervising physician)
- Psychologist or Neuropsychologist
- Licensed Mental Health Professional (LCSW, LPC, LMFT, LAT)
- Speech Therapist . . .

“For Medicaid payment to occur, interactive audio and video telecommunications must be permitting real-time communication between the distant site physician or practitioner and the patient with sufficient quality to assure the accuracy of the assessment, diagnosis, and visible evaluation of symptoms and potential medication side effects. All interactive video telecommunication must comply with HIPAA patient privacy regulations at the site where the patient is located, the site where the consultant is located, and in the transmission process.”

[Wyoming Department of Health, Division of Healthcare Financing, CMS 1500 ICD-10, § 6.24.1 \(Apr. 1, 2017\), at 109.](#)

In order to obtain Medicaid reimbursement for services delivered through telehealth technology, the following standards must be observed:

- The services must be medically necessary and follow generally accepted standards of care.
- The service must be a service covered by Medicaid.
- Claims must be made according to Medicaid billing instructions.
- The same procedure codes and rates apply as for services delivered in person.
- Quality assurance/improvement activities relative to telehealth delivered services need to be identified, documented and monitored.
- Providers need to develop and document evaluation processes and patient outcomes related to the telehealth program, visits, provider access, and patient satisfaction.
- All service providers are required to develop and maintain written documentation in the form of progress notes the same as is originated during an in-person visit or consultation with the exception that the mode of communication (i.e. teleconference) should be noted. . . .

[Wyoming Department of Health, Division of Healthcare Financing, CMS 1500 ICD-10, § 6.24.3 \(Apr. 1, 2017\), at 110.](#)

Epstein Becker Green's Telehealth Services

Once limited to rural or remote communities, telehealth is increasingly being used, both inside and outside the United States, to expand the geographic reach of health services and improve access to health care. Telehealth encompasses a wide range of practices, including medically related interactions among providers and patients through email, telephone, Internet, video-conference, and remote devices.

Many factors are driving growth and innovation in telehealth. Individuals now armed with smartphones, laptops, and tablet computers are often only an application away from telehealth platforms that can link them to physicians and other health professionals who can potentially diagnose, treat, monitor, and provide medical consultations on a diverse and growing number of health conditions. Along with such improvements in technology, telehealth is also increasingly being seen as an effective tool for improving health outcomes and access to care, especially in underserved areas. For example, many hospitals are using telehealth to expand their service offerings by collaborating with other hospitals, both domestically and internationally, in the development of programs such as "Tele-ICU," "Tele-Stroke," and "TelePathology." Also, physician groups are using telehealth to better track and more frequently interact with patients.

[Epstein Becker Green](#) helps companies navigate the many legal challenges affecting telehealth and manage the risks that can arise in a telehealth setting. We counsel clients on all aspects of the law as it relates to telehealth, including:

- Pathways for third-party reimbursement under federal and state health care programs and within the private payer market
- Compliance with state and federal laws affecting the practice of telehealth
- Compliance with health care fraud and abuse laws
- Medical liability risk management
- Contract negotiations with providers, payers, and telehealth technology companies
- The impact of current and pending legislation and regulations on client operations
- The impact of legislation on corporate structures and reimbursement
- The coordination of client issues with professional and trade associations
- State legislation and regulation
- The development of coalitions supporting policy issues

Epstein Becker Green attorneys have an in-depth focus on the regulation of telemedicine, mobile health, health information technology, and other software and remote monitoring applications used in the health care context. We have been at the forefront of the development of global regulatory policy for health information technology and integrally involved in the regulatory challenges facing the telehealth market.

For more information, please contact one of the authors, subscribe to our [TechHealth Perspectives blog](#), or [subscribe to our publications](#).