

EPSTEIN  
BECKER  
GREEN

## 50-State Survey of Telemental/Telebehavioral Health (2016)



**TABLE OF CONTENTS**

Executive Summary	3	Mississippi	291
Authors and Contributors	14	Missouri	302
Disclaimer/Usage	15	Montana	311
Alabama	16	Nebraska	320
Alaska	26	Nevada	330
Arizona	38	New Hampshire	342
Arkansas	48	New Jersey	352
California	58	New Mexico	363
Colorado	70	New York	372
Connecticut	81	North Carolina	387
Delaware	93	North Dakota	397
District of Columbia	109	Ohio	407
Florida	118	Oklahoma	419
Georgia	131	Oregon	430
Hawaii	148	Pennsylvania	441
Idaho	162	Rhode Island	452
Illinois	172	South Carolina	463
Indiana	181	South Dakota	474
Iowa	190	Tennessee	484
Kansas	200	Texas	495
Kentucky	208	Utah	519
Louisiana	218	Vermont	530
Maine	236	Virginia	542
Maryland	249	Washington	552
Massachusetts	259	West Virginia	565
Michigan	273	Wisconsin	580
Minnesota	282	Wyoming	592

## EXECUTIVE SUMMARY

Epstein Becker Green's 50-State Legal Survey of Telemental Health (2016) ("Survey") is an extensive compilation of research regarding the laws, regulations, and regulatory policies impacting the practice of telemental health in all 50 states and the District of Columbia. The Survey is organized using an easy to use question-and-answer format and has 12 distinct areas of focus:

1. General Telemedicine/Telehealth
2. Psychiatrists
3. Psychologists
4. Social Workers
5. Counselors
6. Marriage/Family Therapists
7. Advanced Practice Registered Nurses ("APRNs")
8. Privacy/Confidentiality
9. Minors
10. Follow-Up Care
11. Coverage & Reimbursement
12. Controlled Substances

For each of the different mental health provider types covered, the Survey summarizes relevant state laws, regulations, and regulatory policies related to such issues as a provider's prescribing authority, the establishment of a provider-patient relationship, and the acceptable modalities for the provision of telemental health services that meet the applicable standards of care. Included in the Survey are hyperlinks to original source materials (e.g., relevant laws, regulations, and agency guidance).



*Accessing mental health care is a significant challenge for most Americans, with wait times to see a provider measured in weeks and months, rather than days. In addition to long wait times, distance, cost, and stigma present significant barriers to getting care. These are all challenges that telemedicine is uniquely equipped to solve.*

Dr. Ian Tong  
Chief Medical Officer  
Doctor On Demand



## The State of Telemental Health in 2016

### Introduction

Telemental health has gone mainstream. Also referred to as “telebehavioral health,” “e-counseling,” “e-therapy,” “online therapy,” “cybercounseling,” or “online counseling,” telemental health is the provision of remote mental health care services (using modalities including videoconferencing, computer programs, and mobile applications) by a variety of different mental health providers, such as psychiatrists, psychologists, social workers, counselors, and marriage and family therapists. Behavioral health care models have evolved over the years to include hospitals establishing telepsychiatric assessment programs in their emergency departments as well as the creation of virtual networks of mental health professionals providing services to underserved geographic areas.

Many reasons exist for the evident boom in the provision of telemental health services. First, telehealth as a care modality is a good fit for providing mental health services because mental health providers rarely have to lay hands on their patients, even in the context of conventional face-to-face care encounters. Thus, providing the same services remotely using telehealth technology is not viewed as far removed from the way these services are provided in the in-person context. Second, telemental health services have been accepted by a large (and growing) number of payers as a legitimate use for telehealth, more so than other telehealth disciplines. Third, virtual mental health care may enhance the quality of the communications between a mental health provider and his or her patients by reducing the stigma that sometimes is associated with a patient physically visiting a mental health provider. Fourth, a combination of factors, including the prevalence of mental illness and a mental health provider shortage, is incentivizing stakeholders to look for innovative alternative care models to use in lieu of in-person care. Finally, patients surveyed regarding their use of telemental health services have consistently stated that they believe telemental health is a credible and effective practice of medicine—studies have found little or no difference in patient satisfaction as compared with face-to-face mental health interactions.

### Prevalence of Mental Illness in the United States

Mental illness affects millions of individuals in the United States, from all walks of life and across all age groups, and contributes significantly to the burdens of disease. There is a vigorous public debate regarding the impacts of mental illness, both generally as well as with regard to specific populations, such as veterans and suspects tied to mass shootings and other sensational acts of violence. Mental illness can be recurrent, as well as serious, but often is treatable, provided individuals have access to the necessary treatment.

Mental health disorders generally are characterized by changes in mood, thought, or behavior. Individuals who suffer from mental health disorders often experience difficulty carrying out daily activities of life, as well as impaired ability to work or function in school, to interact with family and friends, and to fulfill other major life functions. According to the Substance Abuse and Mental Health Services Administration (“SAMHSA”), in 2014, approximately 43 million American adults—about one in every five adults aged 18 or older—suffered from some mental illness.<sup>1</sup> A subset of approximately 10 million American adults—about one in every 25—suffered from a “serious mental illness,” defined as a mental illness that substantially interferes with or limits one or more major life activities. Examples of serious mental illnesses are schizophrenia, bipolar disorder, and major depression.

SAMHSA’s numbers are conservative when compared to other mental health organizations whose statistics present an even more daunting picture. For example, according to statistics summarized in a report from the National Alliance on Mental Illness (“NAMI”), the situation is more acute:<sup>2</sup>

- One in four American adults (about 61 million Americans) experiences mental illness in a given year.
- One in 17 Americans (about 14 million) lives with a serious mental illness:
  - » Approximately 1 percent of adults (about two and a half million people) live with schizophrenia.
  - » Approximately 2.5 percent of adults (about six million people) live with bipolar disorder.
  - » Approximately 7 percent of adults (about 15 million people) live with major depression.
  - » Approximately 18 percent of adults (about 42 million people) live with anxiety disorders, such as panic disorder, obsessive-compulsive disorder, posttraumatic stress disorder (“PTSD”), generalized anxiety disorder, and phobias.
- Approximately 20 percent of youth ages 13 to 18 experience severe mental disorders in a given year:
  - » For ages eight to 15, the estimate is 13 percent.
  - » Half of all chronic mental illness begins by age 14; three-quarters starts by age 24.
- Only 41 percent of adults with a mental health condition received mental health services in the past year.

---

1 U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Admin., *Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health (Sept. 2015)*, available at <http://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.pdf>. SAMHSA’s National Survey on Drug Use and Health focuses on the use of illegal drugs, alcohol, and tobacco, and includes modules that focus on mental health issues.

2 Nat’l Alliance on Mental Illness, *Mental Health by the Numbers*, available at <http://www.nami.org/Learn-More/Mental-Health-By-the-Numbers>.

- Suicide is the 10th leading cause of death in the U.S. and the third leading cause of death for people aged 10 – 24.

Despite such significant prevalence of mental illness, health systems have not yet adequately responded to the **burdens** of mental illness. Indeed, notwithstanding a variety of effective treatment modalities, there are long delays—sometimes decades—between the appearance of initial symptoms of mental health disorders and when individuals actually seek help.<sup>3</sup> Studies show that nearly half of those who will develop mental illness show symptoms as young as age 14.<sup>4</sup> Societal stigma is a major barrier for many individuals seeking mental health treatment.

Historically, insurance companies have limited or omitted coverage entirely for mental health services, further discouraging individuals from seeking treatment due to inadequate coverage of the associated costs. In 2008, a mere 13 percent of adults in the United States received treatment for mental illness, whether in inpatient or outpatient settings, or simply by using prescription medication.<sup>5</sup>

As a result, the gap between individuals needing treatment for mental illness, and those who are actually receiving treatment, is substantial.<sup>6</sup> The consequences are far-reaching. Serious mental illness costs the United States an estimated \$200 billion in lost earnings annually with an estimate of \$300 billion per year in total lost costs.<sup>7</sup> In addition, individuals living with serious mental illness face increased risk of having chronic medical conditions.<sup>8</sup> Untreated mental health issues also can lead to increased likelihood of substance abuse, child abuse, and other domestic problems. The ripple effects of mental illness are widespread.

### Shortage of Mental Health Providers

Exacerbating the mental health crisis is the critical shortage of mental health providers, creating significant access to care issues. The statistics are daunting:

3 U.S. Dep't of Health & Human Servs., Nat'l Inst. of Health, Nat'l Inst. of *Mental Health, Mental Illness Exacts Heavy Toll, Beginning in Youth* (June 6, 2005), available at <http://www.nimh.nih.gov/news/science-news/2005/mental-illness-exacts-heavy-toll-beginning-in-youth.shtml>.

4 Mental Health America, *Prevention and Early Intervention B4Stage4: The State of Mental Health in America 2016*, available at <http://www.mentalhealthamerica.net/issues/state-mental-health-america>.

5 U.S. Dep't of Health & Human Servs., Nat'l Inst. of Health, Nat'l Institute of Mental Health, *Use of Mental Health Services and Treatment Among Adults*, available at <http://www.nimh.nih.gov/health/statistics/prevalence/use-of-mental-health-services-and-treatment-among-adults.shtml>.

6 World Health Organization, *Mental Health Action Plan 2013-2020* (May 2013), available at [http://www.who.int/iris/bitstream/10665/89966/1/9789241506021\\_eng.pdf](http://www.who.int/iris/bitstream/10665/89966/1/9789241506021_eng.pdf).

7 Nat'l Alliance on Mental Illness, *Mental Health by the Numbers* (2015), available at <https://www.nami.org/Learn-More/Mental-Health-By-the-Numbers> (citing T.R. Insel, *Assessing the Economic Costs of Serious Mental Illness*, AM. J. PSYCHIATRY 165(6), at 663-65 (2008)); Nat'l Inst. of Mental Health, *Annual Total Direct and Indirect Costs of Serious Mental Illness*, available at <https://www.nimh.nih.gov/health/statistics/cost/index.shtml>.

8 *Id.* (citing C.W. Colton & R.W. Manderscheid, *Congruencies in Increased Mortality Rates, Years of Potential Life Lost, and Causes of Death Among Public Mental Health Clients in Eight States*, PREVENTING CHRONIC DISEASE: PUBLIC HEALTH RESEARCH, PRACTICE, AND POLICY 3(2), at 1-14 (2006)).

- Only 40 percent of Americans with mental illness report receiving treatment.
- One mental health provider exists for every 790 individuals.
- Approximately 4,000 mental health Health Professional Shortage Areas (“HPSAs”) exist, an estimate that is based on a psychiatrist-to-population ratio of 1:30,000; meaning, it would take approximately 3,000 additional psychiatrists to eliminate the current mental health HPSA designations.<sup>9</sup>
- A report to Congress found that 55 percent of the nation’s 3,100 counties have no practicing psychiatrists, psychologists, or social workers.

A deeper look into these numbers yields some troubling trends. For example, a report published by Merritt Hawkins, a leading physician search firm, citing data from the American Medical Association, found that about 60 percent of the nation’s psychiatrists are at least 55 years old with about 48 percent being 60 or older and expected to retire within five years.<sup>10</sup> Moreover, psychiatrists are not evenly distributed throughout the country, with more psychiatrists in the Northeastern United States than anywhere else.<sup>11</sup>

According to Mental Health America’s latest report on mental health, there is only one mental health provider for every 566 people in the country.<sup>12</sup> The report notes that in states with the highest number of mental health providers (e.g., Maine), there is one mental health provider for every 250 individuals. By contrast, in states with the lowest number of mental health providers (e.g., Texas), there is one mental health provider for every 1,100 individuals. In other words, there is **four** times less access to mental health providers in this second group of states, as compared to the states with the highest numbers of available mental health providers.

## Mental Health Parity

Mental health parity refers to the notion of equal treatment by insurance plans of mental health and substance abuse conditions as compared to treatments available for more conventional medical conditions. Historically, insurance plans have covered treatment for mental health conditions differently, often resulting in a higher “cost-sharing structure, more restrictive limits on the number of inpatient days and outpatient visits allowed, separate annual and lifetime caps on coverage, and different prior authorization requirements than coverage for other medical care.”<sup>13</sup> Ultimately, this led insurance plans to provide coverage for mental health conditions in a manner “substantially less generous than benefits for physical health conditions.”<sup>14</sup>

9 Health Resources and Services Admin., *Shortage Designation: Health Professional Shortage Areas & Medically Underserved Areas/Populations*, available at <http://www.hrsa.gov/shortage/>.

10 Merritt Hawkins, *Psychiatry: The Silent Shortage (2015)*, available at <https://www.ihaconnect.org/news/Documents/News%20stories%204-15-15/mhawhitepaperpsychiatryPDF.pdf>.

11 *Id.*

12 Mental Health America, *The State of Mental Health in America 2016*, available at <http://www.mentalhealthamerica.net/sites/default/files/2016%20MH%20in%20America%20FINAL.pdf>.

13 S. Goodell, “Health Policy Briefs: Mental Health Parity,” *Health Affairs* (April 3, 2014), available at [http://www.healthaffairs.org/healthpolicybriefs/brief.php?brief\\_id=112](http://www.healthaffairs.org/healthpolicybriefs/brief.php?brief_id=112).

14 *Id.*

Two federal laws have been passed that attempt to address the issue of mental health parity. First, in 2008, Congress passed the Mental Health Parity and Addiction Equity Act (“MHPAEA”). MHPAEA applied to large group plans and required those plans that offered coverage for mental health and substance abuse conditions to ensure that such benefits did not differ from those benefits provided for medical/surgical conditions.<sup>15</sup> For example, under MHPAEA, deductibles, copayments, and coinsurance could not be higher for mental health or substance abuse conditions than for medical/surgical conditions.

The second of these federal laws, the Patient Protection and Affordable Care Act of 2010 (“ACA”), extended MHPAEA requirements to individual and small group plans. More significantly, ACA included mental health and substance use disorder benefits as one of the 10 categories making up the essential health benefits that are required for all health plans available to consumers via the exchanges.<sup>16</sup>

Even with the implementation of these mental health parity laws, however, coverage and cost of mental health care remains an issue. A report by NAMI focusing on mental health parity identified a number of barriers facing individuals with mental illness:

- serious problems finding mental health providers in health insurance plan networks;
- high rates of denials of authorization for mental health and substance abuse services by insurers;
- barriers to accessing psychiatric medications in health plans;
- high out-of-pocket costs for prescription drugs that may deter patient participation in both mental health and medical care;
- high copayments, deductibles, and coinsurance rates that impose barriers to mental health treatment; and
- serious deficiencies in access to the information necessary to enable consumers to make informed decisions about the health plans that are best for them under ACA.

In connection with describing these barriers, NAMI makes a number of policy recommendations, including strengthening MHPAEA enforcement, requiring health plans to publish (and regularly update) accurate lists of available mental health providers, requiring health plans to publish the clinical criteria used by the plans to approve/deny coverage of mental health services, and requesting that Congress and the Obama administration find solutions to decrease the out-of-pocket costs associated with mental health services, particularly for low-income individuals.<sup>17</sup>

---

15 Nat'l Alliance on Mental Illness, *A Long Road Ahead: Achieving True Parity in Mental Health and Substance Use Care* (April 2015), available at <https://www.nami.org/About-NAMI/Publications-Reports/Public-Policy-Reports/A-Long-Road-Ahead/2015-ALongRoadAhead.pdf>; see also, The Ctr. for Consumer Information & Insurance Oversight, *The Mental Health Parity and Addiction Equity Act*, available at [https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/mhpaea\\_factsheet.html](https://www.cms.gov/CCIIO/Programs-and-Initiatives/Other-Insurance-Protections/mhpaea_factsheet.html).

16 10 Health Care Benefits Covered in the Health Insurance Marketplace (Aug. 22, 2013), available at <https://www.healthcare.gov/blog/10-health-care-benefits-covered-in-the-health-insurance-marketplace/>.

17 See *supra* note 15.

## Telemental Health Bridging the Gap

Given the significant issues impacting access to and provision of mental health services, telemental health is increasingly being viewed as an alternative to bridging the existing care gap. The federal government provides a clear example:

### The Veterans Health Administration Example

The Veterans Health Administration (“VHA”) has long used telemental health services to provide mental health services to military veterans. In 2010, VHA established a National Telemental Health Center, and, in 2013, that Center facilitated nearly 3,000 videoconference encounters to 1,000 patients at 53 sites in 24 states.<sup>18</sup> The scope of the services the Center addresses includes all mental health conditions, with a particular focus on PTSD, depression, and bipolar disorder.

Outside of the services provided by the Center, VHA also has provided a large variety of other telemental health services:

- Since 2003, VHA has facilitated more than 1.1 million patient encounters from 150 facilities to 729 community based outpatient clinics (“CBOCs”), representing a 23-fold increase in consultations over the years.
- In 2013, VHA delivered more than 278,000 patient encounters to more than 91,000 patients from 150 VA Medical Centers and 729 CBOCs.
- In 2013, chronic disease management services provided via telehealth devices supported 7,430 patients with chronic mental health conditions in their homes, and an additional 2,284 patients had video-based telemental health consultations while in their homes, allowing all of these patients to live independently.

### The (Tele)Health Ecosystem

Beyond the U.S. Department of Veterans Affairs, other health care providers and systems are increasingly embracing the use of telemental health services as part of the care continuum. The South Carolina Department of Mental Health and the South Carolina Hospital Association, with funds from the Duke Endowment, established a statewide telepsychiatry network that allows patients, emergency department physicians, and psychiatrists to communicate via video-based and wireless communications. Since its inception, the program has resulted in an estimated cost savings of nearly \$30 million.<sup>19</sup>

---

18 A. Darkins, *Telehealth Services in the United States Department of Veterans Affairs (VA)*, Veterans Health Admin. (2014), available at <http://c.ymcdn.com/sites/www.hisa.org.au/resource/resmgr/tele-health2014/Adam-Darkins.pdf>.

19 South Carolina Department of Mental Health, *Emergency Department Telepsychiatry Program*, available at <http://www.state.sc.us/dmh/telepsychiatry/index.htm>; C. Vestal, *Getting Rural Patients Psychiatric Help Fast*, The Pew Charitable Trusts (June 26, 2014), available at <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2014/06/getting-rural-patients-psychiatric-help-fast>.

Separately, regional psychiatric networks have also been formed in North Carolina through funding by the Duke Endowment.<sup>20</sup> These developments are mirrored across the country. Universities are establishing their own telepsychiatric programs,<sup>21</sup> prisons are increasingly incorporating the use of telemental health services to treat inmates,<sup>22</sup> and the use of home-based telemental health services is rapidly on the rise.

### New Technology Driving Growth

Development of new technologies is also driving a boom in the use of telemental health services. For example, there has been a significant increase in the number of mobile health applications related to mental health services, with recent estimates suggesting that approximately 6 percent of all mobile health applications developed are focused on providing mental health services to users, while another 11 percent of mobile health applications developed are devoted to providing stress management services to users.<sup>23</sup> Additionally, companies have started providing so-called “text therapy” services that allow users, for a flat-rate fee, to text chat with various types of licensed mental health professionals.<sup>24</sup>

### Studies Demonstrate the Efficacy of Telemental Health

Recent studies have demonstrated the effectiveness of telemental health services. One recent study showed that providing telemental health services to patients living in rural and underserved areas significantly reduced psychiatric hospitalization rates. More specifically, between 2006 and 2010, psychiatric admissions for patients who utilized telemental health services decreased by approximately 24 percent, and the patients’ days of hospitalization decreased by an average of 26 percent.<sup>25</sup>

Another recent study concluded that the effects of receiving telemental health services on low-income homebound older adults were sustained significantly longer than those

---

20 C. Vestal, *Getting Rural Patients Psychiatric Help Fast*, The Pew Charitable Trusts (June 26, 2014), available at <http://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2014/06/getting-rural-patients-psychiatric-help-fast>.

21 Univ. of Maryland School of Medicine, Department of Psychiatry, *TeleMental Health*, available at <http://medschool.umaryland.edu/psychiatry/TeleMental.asp>.

22 S.A. Deslich, T. Thistlethwaite & A. Coustasse, *Telepsychiatry in Correctional Facilities: Using Technology to Improve Access and Decrease Costs of Mental Health Care in Underserved Populations*, PERM J. 17(3) at 80–86 (Summer 2013), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3783076/>.

23 M.L. East & B.C. Havard, *Mental Health Mobile Apps: From Infusion to Diffusion in the Mental Health Social System*, JMIR MENTAL HEALTH 2(1) (March 31, 2015), available at <http://mental.jmir.org/2015/1/e10/>.

24 J. Fruhlinger, *All-You-Can-Text Therapy Services*, WALL ST. J. (Oct. 15, 2014), available at <http://www.wsj.com/articles/all-you-can-text-therapy-services-1413398763>.

25 L. Godleski, A. Darkins & J. Peters, *Outcomes of 98,609 U.S. Department of Veterans Affairs Patients Enrolled in Telemental Health Services, 2006–2010*, PSYCHIATRY ONLINE 63(4) (April 2012), available at <http://ps.psychiatryonline.org/doi/abs/10.1176/appi.ps.201100206>.

who received the same services in-person.<sup>26</sup> Other studies have arrived at the same conclusion. The Center for Connected Health Policy, a leading national telehealth research organization that also serves as the federally designated National Telehealth Policy Resource Center, has catalogued telemental health studies published in peer-reviewed journals.<sup>27</sup>

### Obstacles to Provision of Telemental Health Services Frustrate Providers

Despite the promise of telemental health services, some practical obstacles to providing these services remain as concerns to providers, including how to properly assess nonverbal cues when communicating with patients by video, technical difficulties associated with the use of telehealth technologies, and the lack of proper training of many providers regarding the appropriate provision of telehealth services. A study looking at these and other barriers noted:

- concerns from many mental health providers that remote services may make it more difficult for them to establish a rapport and build a good relationship with patients, thereby making it harder for patients to comply with treatment plans, and
- concerns from mental health providers regarding how telemental health services could affect their clinical workflows (e.g., buying new and expensive technology to support the provision of these services, adopting new procedures to separately address the nature of telehealth (i.e., not face-to-face) encounters with patients, and other disruptions that impact the provision of mental health services to patients who need them).<sup>28</sup>

However, given the prevalence of mental illness in this country, coupled with the shortage of mental health care providers in many parts of this country, it is highly unlikely that such concerns will derail the wider adoption of telemental health services.

### Legal & Regulatory Issues

A number of significant legal, regulatory, and policy issues are implicated by the use of telemental health services, including privacy and security, follow-up care, emergency care, the treatment of minors, and reimbursement. While telemental health touches on some federal laws and regulations (e.g., the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)), most of the significant legal and regulatory issues related

26 N.G. Choi, C.N. Marti, M.L. Bruce, *et al*, *Six-Month Postintervention and Disability Outcomes of In-Home Telehealth Problem-Solving Therapy for Depressed, Low-Income Homebound Older Adults*, *DEPRESS ANXIETY* 31(8) at 653–661 (Aug. 2014), available at <http://www.ncbi.nlm.nih.gov/pubmed/24501015>.

27 Ctr. for Connected Health Policy, *Telemental Health Research Catalogue and Quality Assessment* (Aug. 2014), available at <http://cchpca.org/sites/default/files/resources/Telemental%20Health%20Research%20Catalogue.pdf>

28 E. Brooks, C. Turvey & E.F. Augusterfer, *Provider Barriers to Telemental Health: Obstacles Overcome, Obstacles Remaining*, *TELEMEDICINE AND E-HEALTH* 19(6) at 433–437 (May 22, 2013), available at <http://online.liebertpub.com/doi/abs/10.1089/tmj.2013.0068?journalCode=tmj>.

to the provision of telemental health services involve state law, and states have taken varying approaches to regulating telehealth services generally and telemental health services in particular. This has resulted in an inconsistent patchwork of laws and regulations that vary widely by state.

The Survey summarizes research conducted by Epstein Becker Green attorneys regarding the state laws, regulations, and regulatory policies that may implicate telemental health in all 50 states and the District of Columbia. The following are some of the highlights of the Survey:

- Psychiatrists, as practicing physicians, must comply with all the obligations that apply to physicians practicing telehealth generally. Very few states exempt mental health services from these requirements, despite the fact that many psychiatrists never lay hands on patients. Texas is one of the few states that explicitly carves out mental health services from requirements applicable to the provision of other telehealth services.
- In Delaware, an individual practicing “telepsychology” must conduct a risk-benefit analysis and document findings specific to issues, such as whether a patient’s presenting problems and apparent condition are consistent with the use of telepsychology to the patient’s benefit, and whether the patient has sufficient knowledge and skills in the use of technology involved in rendering the service or can use a personal aid or assistive device to benefit from the service.
- Kansas requires psychologists and social workers providing telemental health services to obtain the informed consent of the patient before services are provided.
- In Maryland, physicians (psychiatrists) are required to develop a procedure to prevent access to data by unauthorized persons through password protection, encryption, or other means and to develop a policy on how soon an individual can expect a response from the physician to questions or other requests included in transmission.
- Montana psychologists may initially establish a “defined professional relationship” electronically so long as the means of communication involves a two-way, real-time, interactive platform providing for both audio and visual interaction.
- To regulate marriage and family therapists, South Dakota relies on the American Association for Marriage and Family Therapy’s Code of Ethics, which requires that therapists evaluate whether electronic therapy is appropriate for individuals and inform them of the potential risks and benefits associated with electronic therapy.
- Nevada allows APRNs to practice by using equipment that transfers information concerning the medical condition of a patient electronically, telephonically, or by fiber optics from inside or outside Nevada or the United States.

## Practice Guidance

Fortunately, telemental health providers need not operate in a vacuum. There is a well-developed library of practice guidelines available regarding the provision of telemental health services. The American Psychiatric Association, the American Psychological Association, the National Association of Social Workers,<sup>29</sup> the Association of Social Work Boards, and the TeleMental Health Institute, among others, have guidelines or statements related to the provision of telemental health services. The American Telemedicine Association, a leading trade association in the telehealth space, has also developed a series of practice guidelines over the years related to provision of telemental health services, including its latest guidance regarding use of real-time videoconferencing to provide online mental health services.<sup>30</sup> Other resources, such as the telehealth resource centers that provide guidance regarding various aspects of telehealth, are also available to telemental health providers.<sup>31</sup>

---

29 Nat'l Assn. of Social Workers, *Social Workers and e-Therapy*, available at [https://www.socialworkers.org/ldf/legal\\_issue/2007/200704.asp](https://www.socialworkers.org/ldf/legal_issue/2007/200704.asp).

30 American Telemedicine Assn., *Practice Guidelines for Video-Based Online Mental Health Services* (May 2013), available at <http://www.americantelemed.org/docs/default-source/standards/practice-guidelines-for-video-based-online-mental-health-services.pdf?sfvrsn=6>.

31 Mid-Atlantic Telehealth Res. Ctr., *Telepsychiatry/Telebehavioral Health*, available at <http://www.matrc.org/telepsychiatry-telemental-health>.

## AUTHORS



### René Y. Quashie

Senior Counsel  
rquashie@ebglaw.com  
Tel: 202-861-1888

René Y. Quashie is a Senior Counsel in the Health Care and Life Sciences practice, in the firm's Washington, DC, office. He focuses his practice on federal regulatory and administrative health care matters, including Medicare and Medicaid, legislative and health policy, privacy and security, general compliance, clinical research, health information technology, FDA issues, and telemedicine.

Mr. Quashie also serves as a legal advisor to the Telehealth Task Force of the ERISA Industry Committee (ERIC). In this role, he provides legal and regulatory counsel and advice to members of ERIC regarding telehealth matters. Additionally, as a member of the CTel Legal Resource Team, Mr. Quashie advises on a wide range of telehealth matters that guide the business models and programs of the telehealth community. Most recently, Mr. Quashie has also been invited to join the American Telemedicine Association (ATA) 2016 Peer Review Committee.



### Amy F. Lerman

Senior Counsel  
alerman@ebglaw.com  
Tel: 202-861-1832

Amy F. Lerman is a Senior Counsel in the Health Care and Life Sciences practice, in the Washington, DC, office of Epstein Becker Green. Ms. Lerman focuses her practice on a variety of regulatory and transactional health care matters, including corporate compliance, durable medical equipment, Medicare program integrity auditing and monitoring, and telehealth/tele-

medicine. She represents a variety of health care providers and organizations, as well as investors and other financial institutions that invest in or support the health care industry.

## Contributors:

### Jonathan K. Hoerner

Associate  
jhoerner@ebglaw.com  
Tel: 202-861-1826

### Bonnie I. Scott

Associate  
bscott@ebglaw.com  
Tel: 202-861-1869

### James S. Tam

Associate  
jtam@ebglaw.com  
Tel: 202-861-1883

### Meghan F. Weinberg

Associate  
mweinberg@ebglaw.com  
Tel: 202-861-1370

## DISCLAIMER/USAGE

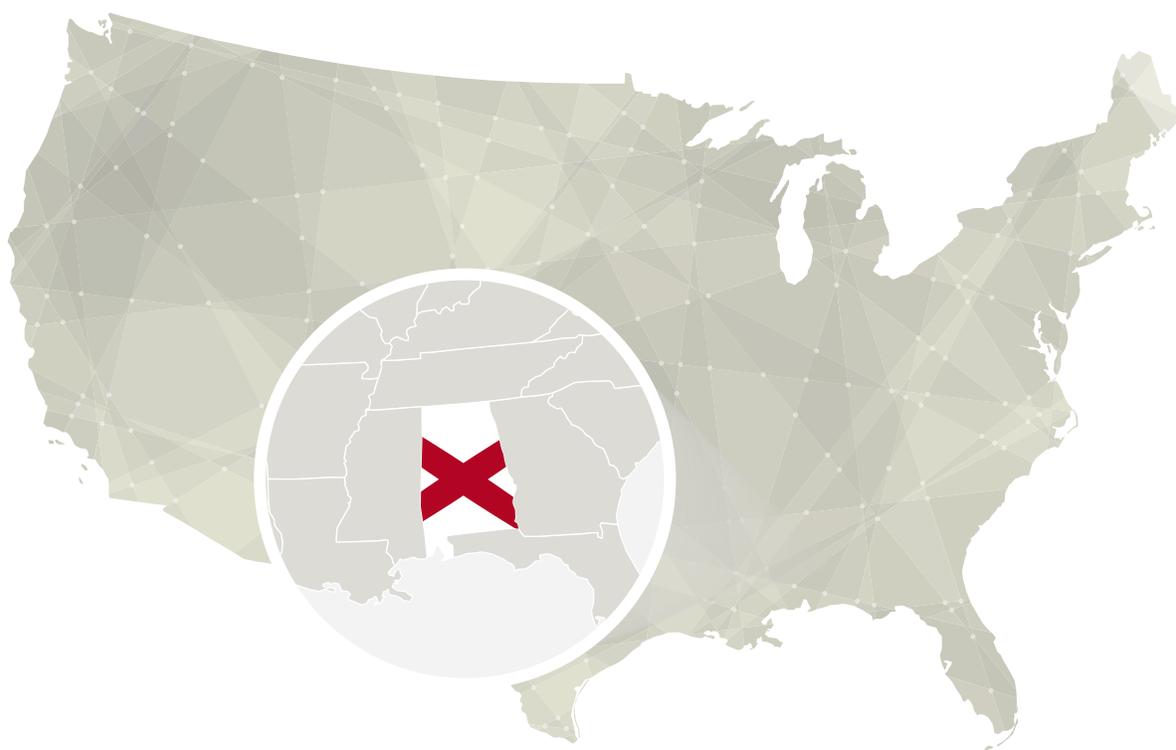
Copyright © 2016 Epstein Becker & Green, P.C. All rights reserved.

This document has been provided for informational purposes only and is not intended and should not be construed to constitute legal advice. The information in this report was compiled in Q1 2016. The facts included in the document are subject to change. Please consult your attorneys in connection with any fact-specific situation under federal law and the applicable state or local laws that may impose additional obligations on you and your company.

In addition, this document provides external links as a convenience to our users. The appearance of external hyperlinks does not constitute endorsement of the linked websites, or the information, products, or services contained therein. Epstein Becker Green does not exercise any editorial control over the information you may find at these locations. The external links referenced were last viewed in April 2016 by Epstein Becker Green, and the firm assumes no obligation to update any information contained herein.

Attorney Advertising.

# ALABAMA





## ALABAMA

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

Alabama does not have a statutory or regulatory definition for “telehealth” or “telemedicine” generally, but the *Alabama Medicaid Provider Manual* provides guidance in that “[s]ervices 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” (not including a telephone conversation, e-mail, or fax between the physician, recipient, or a consultation between two physicians).

[Alabama Medicaid Provider Manual, Chapter 28](#)

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

None identified.

## PSYCHIATRISTS

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

[Alabama Board of Medical Examiners](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes, a license issued by the Alabama Board of Medical Examiners is required.

“Any person who practices medicine or osteopathy or offers to do so in this state without a certificate of qualification having been issued in his or her behalf by the State Board of Medical Examiners and without a license and certificate of registration from the Medical Licensure Commission of Alabama shall be guilty of a Class C felony.”

[ALA. CODE § 34-24-51.](#)

Alabama also allows for the practice of medicine across state lines with a Special Purpose License. Alabama defines the “practice of medicine across state lines” as follows:

The rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient located 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 or her agent; or the rendering of treatment to a patient located 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 this state to such physician or his or her agent.

[ALA. CODE § 34-24-502; ALA. ADMIN. CODE r. 540-X-16.](#)



## ALABAMA

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

There are prohibitions on the practice of telemedicine if a physician is an employee at a state penal or mental institution, according to telehealth medical practice regulations. Physicians “employed full-time at any state penal institution or any state mental institution or any other state institution approved by the Board of Medical Examiners” may be issued a certificate of qualification without examination but “must limit their practice to the confines of the institution in which they are employed.”

[ALA. CODE § 34-24-75\(b\).](#)

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

None identified.

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

Yes.

There are no specific criteria identified with regard to telehealth.

Additionally, the medical practice regulations state that prescribing without first personally examining the patient is inappropriate but may be suitable in some circumstances:

1. It is the position of the Board that prescribing drugs to an individual the prescriber has not personally examined is usually inappropriate. Before prescribing a drug, a physician should make an informed medical judgment based on the circumstances of the situation and on his or her training and experience. Ordinarily, this will require that the physician personally perform an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan, a part of which might be a prescription. This process must be documented appropriately.
2. Prescribing for a patient whom the physician has not personally examined may be suitable under certain circumstances. These may include, but not be limited to, admission orders for a patient newly admitted to a health care facility, prescribing for a patient of another physician for whom the prescriber is taking call, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment. Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice.

[ALA. ADMIN. CODE 540-X-9-.11.](#)

### 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.

## PSYCHOLOGISTS

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

[Alabama Board of Examiners in Psychology](#)



## ALABAMA

### What are the restrictions on the scope of practice for psychologists 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)?

Yes, a license issued by the Alabama Board of Examiners in Psychology is required.

The Alabama psychology practice statute permits an out-of-state psychologist to practice within the state, for a limited time, under the following terms:

An individual who possesses a valid license to practice psychology independently at the doctoral level, by any jurisdiction recognized by the Association of State and Provincial Psychology Boards, may practice psychology in Alabama for no more than 30 days each calendar year without applying for a license to practice psychology in Alabama, unless otherwise exempted pursuant to this chapter.

[ALA. CODE § 34-26-41.](#)

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

None identified.

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

No.

### 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.

## SOCIAL WORKERS

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

[Alabama State Board of Social Work Examiners](#)

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

None identified.



## ALABAMA

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

Yes, a license issued by the Alabama State Board of Social Work Examiners is required.

“No 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 graduate social worker,’ or a ‘licensed certified social worker,’ unless that person is so licensed under this chapter.”

[ALA. CODE § 34-30-20.](#)

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

None identified.

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

No.

### 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.

## COUNSELORS

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

[Alabama Board of Examiners in Counseling](#)

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

While no statutory or regulatory restrictions on the scope of practice for counselors were identified, the Board of Examiners in Counseling drafted ethical guidelines regarding distance technology counseling services. The guidelines require that counselors, who employ distance technology, abide by all client rights and protect the welfare of clients. The guidelines also require counselors to address any disparities between the ethically and legally mandated practices in face-to-face services versus distant counseling services.

[ALA. ADMIN. CODE r. 255-X-11 \(A.12\).](#)

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

Yes, a license issued by the Alabama Board of Examiners in Counseling is required.

The Alabama counseling practice statute permits an out-of-state counselor to practice within the state, for a limited time, under the following terms: “The activities and services of a nonresident person [are] rendered not more than 30 days during any year, provided such person is duly authorized to perform such activities and services under the laws of the state or county of his or her residence.”

[ALA. CODE § 34-8A-3\(3\).](#)



## ALABAMA

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

None identified.

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

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

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

[Alabama Board of Examiners in Marriage and Family Therapy](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

Yes, a license issued by the Alabama Board of Examiners in Marriage and Family Therapy is required.

Except as otherwise provided it shall be a Class B misdemeanor for a person to do any of the following unless licensed pursuant to this chapter:

- Advertise that he or she performs marriage and family therapy or marriage and family counseling services.
- Use a title or description such as “marital or marriage therapist, counselor, advisor, or consultant,” or “family therapist, counselor, advisor, or consultant,” or any other name, style, or description denoting that the person is a marriage and family therapist.
- Practice marriage and family therapy.

[ALA. CODE § 34-17A-4.](#)

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

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.



## ALABAMA

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Alabama Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

Yes, a license issued by the Alabama Board of Nursing is required.

The nursing practice statute permits an out-of-state nurse to practice within the state, for a limited time, under the following terms: “The practice of any currently licensed registered nurse or licensed practical nurse of another state whose employment responsibilities include transporting patients into, out of, or through this state or who is presenting educational programs or consultative services within this state” does not exceed 30 days.

[ALA. CODE § 34-21-6.](#)

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

Alabama telehealth regulations apply to “providers,” and APRNs are included in the definition of “provider.”

The same criteria applicable to physicians apply to APRNs. See the Psychiatrists section above.

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

Yes.

APRN prescribing practices must be done in compliance with the limitations outlined in both the Alabama Nurse Practice Act and the Alabama Controlled Substances Act. However, specific limitations for prescribing via telehealth are not specified (see full text of these two Acts for detailed prescribing conditions).

[ALA. ADMIN. CODE r. 34-21-86](#); [ALA. CODE § 20-2-253.](#)



## ALABAMA

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.

### PRIVACY/CONFIDENTIALITY

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

None identified.

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

None identified.

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?

None identified.

### 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?

No.



## ALABAMA

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

None identified.

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

Yes.

The *Alabama Medicaid Provider Manual* says the following:

All 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 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: [http://medicaid.alabama.gov/documents/5.0\\_Resources/5.4\\_Forms\\_Library/5.4.6\\_Provider\\_Enrollment/5.4.6\\_Web\\_Portal\\_App\\_Telemed\\_Servcs\\_Agree\\_Revised\\_1-5-12.pdf](http://medicaid.alabama.gov/documents/5.0_Resources/5.4_Forms_Library/5.4.6_Provider_Enrollment/5.4.6_Web_Portal_App_Telemed_Servcs_Agree_Revised_1-5-12.pdf)
- 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. . . .

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
  - 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 Manual, Chapter 28.](#)*



## ALABAMA

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Alabama defines the term “controlled substance” to mean “a drug, substance, or immediate precursor in Schedules I through V of [Title 20 Chapter 2 of the Alabama Statutes].” The statute further defines the specific substances that fall within each of the Schedules.

[ALA. CODE § 20-2-2.](#)

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

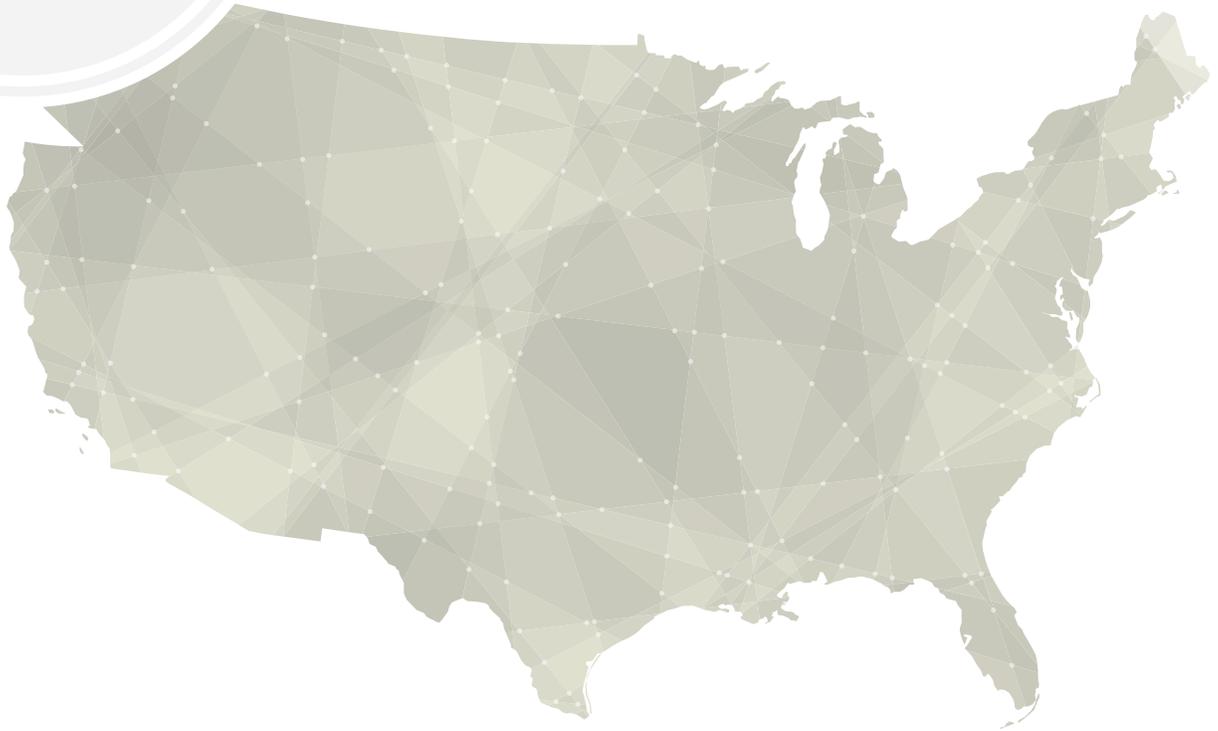
The following requirements apply to physicians prescribing controlled substances:

- (1) All prescriptions for controlled substances shall meet the following requirements:
  - (a) The prescription shall be dated as of, and signed on, the day when issued;
  - (b) The prescription shall bear the full name and address of the patient to whom the drug is prescribed;
  - (c) The prescription shall bear the drug name, strength, dosage form, and quantity prescribed;
  - (d) The prescription shall bear directions for use of the drug;
  - (e) The prescription shall bear the name, address and Alabama Controlled Substances Certificate number of the physician prescribing the drug;
- (2) Where an oral order is not permitted, prescriptions for controlled substances shall be written with ink or indelible pencil or typewriter and shall be manually signed by the physician issuing the prescription. For purposes of this rule, ‘manually signed’ requires a non-electronic, handwritten signature. Oral orders are not permitted for prescriptions for Schedule II and Schedule IIN controlled substances.
- (3) A prescription issued by a physician may be communicated to a pharmacist by an employee or agent of the physician.
- (4) A prescription may be prepared by an employee or agent of the physician for the signature of the prescribing physician; however, the prescribing physician is ultimately responsible for insuring that the prescription meets the requirements of this regulation.
- (5) When a physician prescribes a controlled substance, he or she shall not delegate the responsibility of determining the type, dosage form, frequency of application and number of refills of the drug prescribed.
- (6) Every written prescription for a controlled substance issued by a physician shall contain two signature lines. Under one signature line shall be printed clearly the words “dispense as written.” Under the other signature line shall be printed clearly the words ‘product selection permitted.’ The prescribing physician shall communicate instructions to the pharmacist by entering his or her non-electronic, handwritten signature on the appropriate line.
- (7) It is improper for any prescription for a controlled substance to be signed by any person in the place of or on behalf of the prescribing physician.
- (8) It is improper, under any circumstances, for a physician to pre-sign blank prescription pads or forms and make them available to employees or support personnel.
- (9) It is improper for a physician to utilize blank prescription pads or forms upon which the signature of the physician has been mechanically or photostatically reproduced.

[ALA. ADMIN. CODE r. 540-X-4-.06.](#)



# ALASKA



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

“Telemedicine” does not appear to be generally defined by the Alaska medical practice act. However, for purposes of the Alaska Medicaid Program, the following definition applies: “‘Telemedicine’ means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of medical data, audio, visual, or data communications that are performed over two or more locations between providers who are physically separated from the recipient or from each other.”

[ALASKA ADMIN. CODE, tit. 7, § 110.639.](#)

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

None identified.

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

[A.K. State Medical Board](#)

**What are the restrictions on the scope of practice for psychiatrists 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)?**

Yes, Alaska licensure is required, with limited exceptions.

The Alaska 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](#). However, this statutory consultation exception to the licensure requirement is limited by Medical Board guidance.

Alaska State Medical Board Guidelines 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****Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?** CONTINUED

Telemedicine may be practiced legally in the state as long as the physician holds a current active Alaska license and there is an appropriate (licensed) health care provider on the other side of the transaction (with the patient) to assist the physician with their examination and diagnosis processes. Without that element, the physician is relying only on patient-supplied information, which is considered unprofessional conduct.

[Alaska State Medical Board, \*Telemedicine Guidelines\* \(last updated Nov 2014\).](#)

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

No specific criteria were identified. However, the following is considered to be unprofessional conduct under medical board regulations: providing treatment, rendering a diagnosis, or prescribing medications based solely on a patient-supplied history that a physician licensed in this state received by telephone, facsimile, or electronic format (but see the exceptions to this requirement for prescriptions in the recently passed law described directly below).

[ALASKA ADMIN. CODE, tit. 12, § 40.967\(27\); Alaska State Medical Board, \*Telemedicine Guidelines\* \(last updated May 2012\).](#)

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

Yes.

Generally, it is considered unprofessional conduct under 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. Also, as noted above, physicians are prohibited from 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, the Alaska State Legislature detailed certain exceptions to the physical examination requirement:

The board may not impose disciplinary sanctions on a physician for prescribing, dispensing, or administering a prescription drug to a person without conducting a physical examination if

- (1) the prescription drug is
  - (A) not a controlled substance; or
  - (B) a controlled substance and is prescribed, dispensed, or administered by a physician when an appropriate licensed health care provider is present with the patient to assist the physician with examination, diagnosis, and treatment;
- (2) the physician is located in this state and the physician or another licensed health care provider or physician in the physician's group practice is available to provide follow-up care; and
- (3) the person consents 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 the physician sends the records to the person's primary care provider.

[ALASKA STAT. § 08.64.364; Alaska State Medical Board, \*Telemedicine Guidelines\* \(last updated May 2012\).](#)

**ALASKA**

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.

**PSYCHOLOGISTS**

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

[A.K. Board of Psychologist and Psychological Associate Examiners](#)

What are the restrictions on the scope of practice for psychologists 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)?

None identified.

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

None identified.

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

No.

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.

**SOCIAL WORKERS**

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

[A.K. Board of Social Work Examiners](#)

## ALASKA



**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)?**

None identified.

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

None identified.

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

No.

**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.

## COUNSELORS

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

[A.K. Board of Professional Counselors](#)

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

While no statutory or regulatory restrictions were identified, the Board of Professional Counselors recommends the following guidelines as a resource for technology assisted distance counseling:

- [NBCC Guidelines](#)
- [ACA Code of Ethics, Section A12](#)

[Alaska Board of Professional Counselors, Distance Counseling.](#)

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

Yes. Alaska licensure is required.

According to the Board of Professional Counselors' website, the minutes of a January 2011 Board Meeting state the following with respect to a licensed professional counselor engaging in the practice of technology-assisted distance counseling:

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.

The website goes on to cite the following section of the Alaska Statutes:

**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."

[Alaska Board of Professional Counselors, Distance Counseling.](#)

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

None identified.

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

No.

**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.

**ALASKA****MARRIAGE/FAMILY  
THERAPISTS**

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

[A.K. Board of Marital and Family Therapy](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified. However, the Board of Marital and Family Therapy's website provides the following notice regarding "e-therapy" (on the landing page):

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.

[A.K. Board of Marital and Family Therapy](#)

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

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

**ALASKA****ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**

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

[A.K. Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

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

None identified.

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

Yes, provided they apply for and obtain authorization to prescribe from the Alaska Board of Nursing (nurse practitioners may also apply for controlled substance prescriptive and dispensing authority for controlled substances in schedules 2-5). No specific conditions/limits related to APRN prescribing via telemedicine were identified.

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

**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.

**PRIVACY/CONFIDENTIALITY**

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

None identified.

**ALASKA****MINORS**

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

No telemedicine-specific requirements related to minors were identified.

**FOLLOW-UP CARE**

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

None identified.

**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?**

None identified.

**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?**

No. However, a bill ([SB 80](#)) is pending in the Alaska State Legislature that states, “A health care insurer that offers, issues for delivery, or renews a health care insurance plan that provides coverage for telemedicine may not require that prior in-person contact occur between a health care provider and a patient before payment is made for covered services.”

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

No.

**ALASKA**

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

Yes.

Overview:

- (a) The department will pay for medical services furnished through telemedicine applications as an alternative to traditional methods of delivering services to Medicaid recipients as provided in AS 47.07.
- (b) For a provider to receive payment, the provider's use of telemedicine applications must comply with the standards set out in AS 47.07 and 7 AAC 105 - 7 AAC 160 for the medical service provided by the type of provider, including
  - (1) provisions that affect the efficiency, economy, and quality of service; and
  - (2) coverage limitations.

Telemedicine Applications/Limitations:

- (a) The department will pay a provider for a telemedicine application if the provider provided the medical services through one of the following methods of delivery in the specified manner:
  - (1) live or interactive; to be eligible for payment under this paragraph, the service must be provided through the use of camera, video, or dedicated audio conference equipment on a real-time basis; medical services provided by a telephone that is not part of a dedicated audio conference system or by a facsimile machine are not eligible for payment under this paragraph;
  - (2) store-and-forward; to be eligible for payment under this paragraph, the service must be provided through the transference of digital images, sounds, or previously recorded video from one location to another to allow a consulting provider to obtain information, analyze it, and report back to the referring provider;
  - (3) self-monitoring or testing; to be eligible for payment under this paragraph, the services must be provided by a telemedicine application based in the recipient's home, with the provider only indirectly involved in the provision of the service.
- (b) The department will only make a payment for a telemedicine application if the service is limited to
  - (1) an initial visit;
  - (2) a follow-up visit;
  - (3) a consultation made to confirm a diagnosis;
  - (4) a diagnostic, therapeutic, or interpretive service;
  - (5) a psychiatric or substance abuse assessment;
  - (6) psychotherapy; or
  - (7) pharmacological management services on an individual recipient basis.

Conditions for Payment:

- (a) The department will pay for telemedicine applications provided by a treating, consulting, presenting, or referring provider for a medical service covered by Medicaid and provided within the scope of the provider's license.
- (b) A treating or consulting provider must use applicable modifiers as described in 7 AAC 145.050 for billing for a telemedicine application.
- (c) A presenting, referring, or consulting provider is subject to the conditions for payment that are described in 7 AAC 145.005.

**ALASKA**

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

(d) A presenting provider is only eligible to receive Medicaid payment for a live or interactive telemedicine application as described in 7 AAC 110.625(a)(1).

**Exclusions from Coverage:**

(a) The department will not pay for the following services provided by telemedicine application:

- (1) home and community-based waiver services;
- (2) pharmacy services;
- (3) durable medical equipment services;
- (4) transportation services;
- (5) accommodation services;
- (6) end-stage renal disease services;
- (7) direct-entry midwife services;
- (8) private-duty nursing services;
- (9) personal care assistant services;
- (10) visual care, dispensing, or optician services.

(b) The department will pay only for professional services for a telemedicine application of service. The department will not pay for the use of technological equipment and systems associated with a telemedicine application to render the service.

[ALASKA ADMIN. CODE, tit. 7, § 110.620 et seq.](#)

**CONTROLLED SUBSTANCES**

**How are “controlled substances” defined by the state?**

“Controlled substance” means a drug, substance, or immediate precursor included in the schedules set out in [ALASKA STAT. §§ 11.71.140 through 11.71.190].”

The referenced statutory sections define the substances that fall within each schedule (see full text of statute for further detail).

[ALASKA STAT. § 11.71.900.](#)

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

When prescribing a drug that is a controlled substance . . . an individual licensed under this chapter [(physicians)] shall create and maintain a complete, clear, and legible written record of care that includes, at a minimum:

- (1) a patient history and evaluation sufficient to support a diagnosis;
- (2) a diagnosis and treatment plan for the diagnosis;
- (3) monitoring the patient for the primary condition that necessitates the drug, side effects of the drug, and results of the drug, as appropriate;
- (4) a record of drugs prescribed, administered, or dispensed, including the type of drug, dose, and any authorized refills.

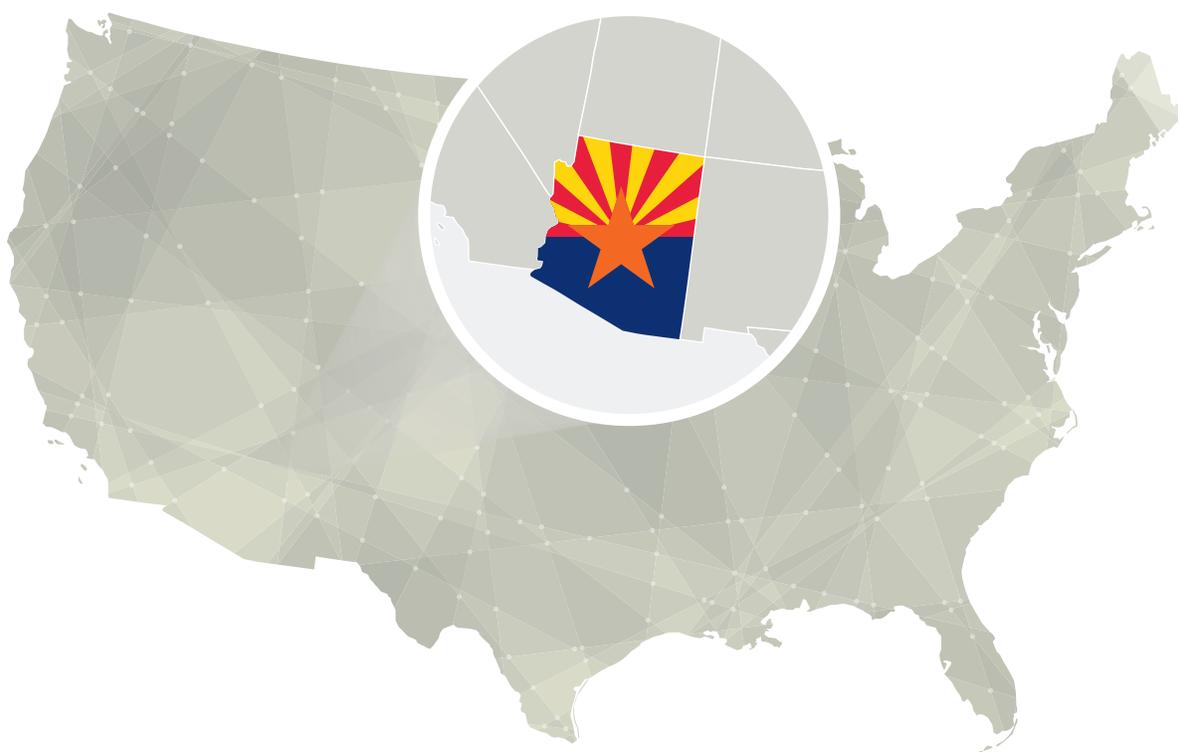
[ALASKA ADMIN. CODE, tit. 12, § 40.975.](#)

These regulatory requirements build upon 1993 guidelines implemented by the Alaska State Medical Board, which provide the following guidance with respect to prescribing controlled substances:

- (1) Perform a work-up sufficient to support a diagnosis, including all necessary tests.
- (2) Document a treatment plan that includes the use of non-addictive modalities, and make referrals to specialists within the profession when indicated.
- (3) Document by history or clinical trial that non-addictive modalities are not appropriate or are ineffective.
- (4) Identify drug seeking patients. Review records. If the patient is new, discuss drug and chemical use and family chemical history with the patient. If drug abuse is suspected, consider obtaining a chemical dependency evaluation or contacting local pharmacies.
- (5) Obtain informed consent of the patient before using a drug with the potential to cause dependency. Drug companies, the AMA, and other outlets provide printed material in layman’s terms that can be used for patient education.
- (6) Monitor the patient. It is important to follow the patient for the primary condition that necessitates the drug, and for side effects of the drug, as well as the results of the drug. Drug holidays to evaluate for symptom recurrence or withdrawal are important.
- (7) Control the supply of the drug. Keep detailed records of the type, dose, and amount of the drug prescribed. Monitor, record, and control refills. Require the patient to return to obtain refill authorization at least part of the time. Records of cumulative dosage and average daily dosage are valuable.
- (8) Maintain contact with the patient’s family as an objective source of information on the patient’s response and compliance to the therapy.
- (9) Create an adequate record of care.

[Alaska State Medical Board, \*Prescribing Controlled Substances Guidelines\* \(last updated June 1997\).](#)

# ARIZONA





## ARIZONA

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

Arizona statutes define “telemedicine” as “the practice of health care delivery, diagnosis, consultation and treatment and the transfer of medical data through interactive audio, video or data communications that occur in the physical presence of the patient, including audio or video communications sent to a health care provider for diagnostic or treatment consultation.”

[ARIZ. REV. STAT. § 36-3601.](#)

The Arizona insurance statute defines “telemedicine” as “the interactive use of audio, video or other electronic media for the purpose of diagnosis, consultation or treatment. Does not include the sole use of an audio-only telephone, a video-only system, a facsimile machine, instant messages or electronic mail.”

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

Arizona regulations define “telemedicine” as the “diagnostic, consultation, and treatment services that occur in the physical presence of an enrollee on a real-time basis through interactive audio, video, or data communication.”

[ARIZ. ADMIN. CODE § R20-6-1902.](#)

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

None identified.

However, an Arizona statute includes physicians, psychologists, social workers, counselors, marriage and family therapists, and nurses among the various types of “health care providers” who can provide telemedicine services.

[ARIZ. REV. STAT. § 36-3601.](#)

## PSYCHIATRISTS

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

[Arizona Medical Board](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

None identified.

However, a license issued by the Arizona Medical Board is generally required to practice Psychiatry in Arizona.

[ARIZ. REV. STAT. § 32-1401.](#)



## ARIZONA

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

Patient consent is required. “Before a health care provider delivers health care through telemedicine, the treating health care provider shall obtain verbal or written consent from the patient or the patient’s health care decision maker. If the informed consent is obtained verbally, the health care provider shall document the consent on the patient’s medical record.”

[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?

Yes, the Arizona medical practice statute allows psychiatrists to prescribe through telemedicine modalities if such encounters satisfy the elements required by the Centers for Medicare & Medicaid Services.

Moreover, an Arizona statute includes the following as an example of “unprofessional conduct”:

Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical or mental health status examination of that person or has previously established a doctor-patient relationship. The physical or mental health status examination may be conducted during a real-time telemedicine encounter with audio and video capability if the telemedicine audio and video capability meets the elements required by the Centers for Medicare and Medicaid Services, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1.

[ARIZ. REV. STAT. § 32-1401\(27\)\(ss\).](#)

### 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 regulatory definition of “telemedicine” states that telemedicine includes “real-time basis through interactive audio, video, or data communication.”

[ARIZ. ADMIN. CODE § R20-6-1902.](#)

## PSYCHOLOGISTS

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

[Arizona Board of Psychologist Examiners](#)

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

None identified.



## ARIZONA

### 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 Arizona Board of Psychologist Examiners is generally required to practice Psychology in Arizona.

The following exemption applies to out-of-state psychologists:

A person who resides outside of this state and who is currently licensed or certified to practice psychology at the independent level by a licensing jurisdiction of the United States or Canada if the activities and services conducted in this state are within the psychologist's customary area of practice, do not exceed twenty days per year and are not otherwise in violation of this chapter and the client or patient, public or consumer is informed of the limited nature of these activities and services and that the psychologist is not licensed in this state. A person may exceed the twenty-day limitation requirement of this paragraph to assist in public service that is related to a disaster as acknowledged by the board.

[ARIZ. REV. STAT. § 32-2075\(A\)\(4\).](#)

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

See Psychiatrists section above.

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

No.

### 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.

See Psychiatrists section above.

## SOCIAL WORKERS

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

[Arizona Board of Behavioral Health Examiners](#)

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

None identified.



## ARIZONA

### 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 Arizona Board of Behavioral Health Examiners is generally required to practice as a social worker in Arizona.

The following exemption applies to out-of-state social workers, counselors, and marriage and family therapists: This chapter does not apply to a person who is not a resident of this state if the person:

- (a) Performs behavioral health services in this state for not more than ninety days in any one calendar year as prescribed by board rule.
- (b) Is authorized to perform these services pursuant to the laws of the state or country in which the person resides or pursuant to the laws of a federally recognized tribe.
- (c) Informs the client of the limited nature of these services and that the person is not licensed in this state.

[ARIZ. REV. STAT. § 32-3271 \(A\).](#)

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

See Psychiatrists section above.

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

No.

### 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.

See Psychiatrists section above.

## COUNSELORS

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

[Arizona Board of Behavioral Health Examiners](#)

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

None identified.



## ARIZONA

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

*See Social Workers section above.*

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

*See Psychiatrists section above.*

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

No.

**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.

*See Psychiatrists section above.*

### MARRIAGE/FAMILY THERAPISTS

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

[Arizona Board of Behavioral Health Examiners](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

*See Social Workers section above.*



## ARIZONA

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

*See Psychiatrists section above.*

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

*See Psychiatrists section above.*

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Arizona State Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

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

None identified.



## ARIZONA

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

Yes.

In addition to the scope of practice permitted a registered nurse, a registered nurse practitioner, under A.R.S. §§ 32-1601 (19) and 32-1606(B)(12), may perform the following acts within the limits of the population focus of certification:

- Prescribe, order, administer and dispense therapeutic measures including pharmacologic agents and devices if authorized under R4-19-511, and non-pharmacological interventions including, but not limited to, durable medical equipment, nutrition, home health care, hospice, physical therapy and occupational therapy.

[ARIZ. ADMIN. CODE § R4-19-508.](#)

For limits on prescribing authority, see the Psychiatrists section above.

### 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.

See Psychiatrists section above.

## PRIVACY/CONFIDENTIALITY

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

None identified.

## MINORS

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

Parental consent is required and the parent's identity must be verified when treating a minor.

Except as otherwise provided by law or a court order, no person, corporation, association, organization or state-supported institution, or any individual employed by any of these entities, may procure, solicit to perform, arrange for the performance of or perform mental health screening in a nonclinical setting or mental health treatment on a minor without first obtaining the written or oral consent of a parent or a legal custodian of the minor child. If the parental consent is given through telemedicine, the health professional must verify the parent's identity at the site where the consent is given.

[ARIZ. REV. STAT. § 36-2272\(A\).](#)



## ARIZONA

### FOLLOW-UP CARE

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

None identified.

**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?**

None identified.

### 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.

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\(A\).](#)

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

None identified.



## ARIZONA

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

Yes.

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 telepresenter must be present with the recipient during the consultation.

[Arizona Health Care Cost Containment System, Fee for Service Provider Manual, Chapter 10](#) (rev. Dec. 2015).

## CONTROLLED SUBSTANCES

### How are "controlled substances" defined by the state?

Arizona statutes define "controlled substance" to mean "a drug, substance or immediate precursor identified, defined or listed in title 36, chapter 27, article 2." Arizona statutes further define the specific substances that fall within each of the schedules.

[ARIZ. REV. STAT. § 32-1901.](#)

### What are the requirements/laws governing the prescribing of "controlled substances"?

Before a licensee dispenses a controlled substance or a prescription-only pharmaceutical drug pursuant to this subsection A of this section, the licensee shall give the patient a written prescription on which appears the following statement in bold type:

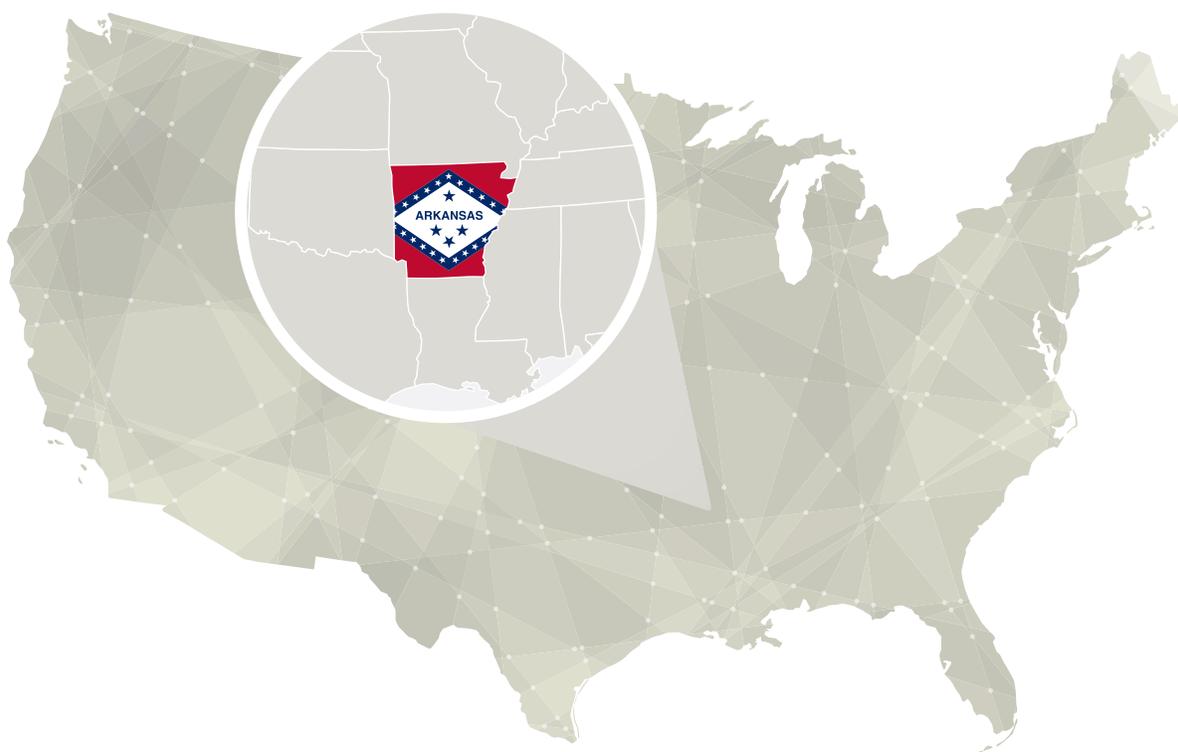
"This prescription may be filled by the prescribing physician or by a pharmacy of your choice."

The licensee shall include the following information on a prescription order:

1. The date it is issued.
2. The patient's name and address.
3. The name, strength and quantity of the drug.
4. Two signature lines for the licensee. The right side of the prescription form under the signature line shall contain the phrase "Substitution Permissible" and the left side under the signature line shall contain the phrase "Dispense As Written".
5. The dispensing licensee's drug enforcement agency number for controlled substances.
6. The date and the printed name and signature of the person who prepares, counts or measures the drug, labels the container or distributes a prepackaged drug to the patient or the patient's representative.

[ARIZ. REV. STAT. § 32-2951.](#)

# ARKANSAS





## ARKANSAS

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

Arkansas defines “telemedicine” as

the medium of delivering clinical healthcare services by means of real-time two-way electronic audio-visual communications, including without limitation the application of secure video conferencing, to provide or support healthcare delivery that facilitates the assessment, diagnosis, consultation, or treatment of a patient’s health care while the patient is at an originating site and the healthcare professional is at a distant site.

[2015 Ark. Acts 887 \(to be codified at ARK. CODE ANN. § 17-80-117\(a\)\(6\)\).](#)

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

None identified.

## PSYCHIATRISTS

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

[Arkansas State Medical Board](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes.

“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. § 17-80-1.](#)

### 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 . . . .

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



## ARKANSAS

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

CONTINUED

- 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.

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. § 17-80-1.](#)

### Does a psychiatrist have prescribing authority?

#### If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

"The 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. § 17-80-1.](#)

### 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 newly enacted statutory definition of "telemedicine" states "real-time two-way electronic audio-visual communications, including without limitation the application of secure video conferencing."

Also, Arkansas statutes provide that "[s]tore and forward technology shall not be considered telemedicine."

[ARK. CODE ANN. § 17-80-1.](#)



## ARKANSAS

### PSYCHOLOGISTS

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

[Arkansas State Board of Psychology](#)

**What are the restrictions on the scope of practice for psychologists 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.”

[2015 Ark. Acts 887 \(to be codified at ARK. CODE ANN. § 17-80-117\(a\)\(2\)\).](#)

The same conditions that apply to psychiatrists appear to apply to all “healthcare professionals” and the Arkansas Code (Title 17, Subtitle 3) groups psychologists in the “medical professions” category along with physicians and other types of health care providers.

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

*See Psychiatrists section above.*

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

No.

**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?**

*See Psychiatrists section above.*

### SOCIAL WORKERS

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

[Arkansas Social Work Licensing Board](#)



## ARKANSAS

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

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.”

[2015 Ark. Acts 887 \(to be enacted at ARK. CODE ANN. § 17-80-117\(a\)\(2\)\).](#)

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

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

*See the Psychiatrists section above.*

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

*See the Psychiatrists section above.*

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

No.

### 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?

*See the Psychiatrists section above.*

## COUNSELORS

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

[Arkansas Board of Examiners in Counseling](#)

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

None identified.



## ARKANSAS

**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 state license is required to practice in the state:

A person who holds himself or herself out to the public as being engaged in the practice of counseling or marriage and family therapy as defined in § 17-27-102 or represents himself or herself by the title “licensed professional counselor”, “licensed associate counselor”, “licensed marriage and family therapist”, or “licensed associate marriage and family therapist” and shall not then possess in full force and effect a valid license to practice counseling under this chapter [is in violation of Arkansas state law].

[ARK. CODE ANN. § 17-27-104.](#)

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

None identified.

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

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

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

[Arkansas Board of Examiners in Counseling](#)

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

None identified.



## ARKANSAS

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

Yes, a license issued by the Arkansas Board of Examiners in Counseling is required.

A person who holds himself or herself out to the public as being engaged in the practice of counseling or marriage and family therapy as defined in § 17-27-102 or represents himself or herself by the title “licensed professional counselor”, “licensed associate counselor”, “licensed marriage and family therapist”, or “licensed associate marriage and family therapist” and shall not then possess in full force and effect a valid license to practice counseling under this chapter [is in violation of Arkansas state law].

[ARK. CODE ANN. § 17-27-104.](#)

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

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Arkansas State Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

See the Psychiatrists section above.



## ARKANSAS

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

See the Psychiatrists section above.

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

Yes.

“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 Board.”

[ARK. CODE ANN. § 17-87-310.](#)

### 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?

See the Psychiatrists section above.

## PRIVACY/CONFIDENTIALITY

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

None identified.

## MINORS

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

None identified.



## ARKANSAS

### FOLLOW-UP CARE

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

See the Psychiatrists section above.

Although the Arkansas telemedicine statute ([ARK. CODE ANN. § 17-80-1](#)) does not define the specific type(s) of follow-up care required, the statute includes “follow-up care” as part of the definition of a “professional relationship.”

#### 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?

None identified.

### 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, but the statute was not effective until January 1, 2016.

“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.”

[2015 Ark. Acts 887 \(to be codified at ARK. CODE ANN. § 23-79-1602\).](#)

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

Yes, but the provisions were not effective until January 1, 2016.

“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 the total amount allowed for healthcare services provided in person.”

[2015 Ark. Acts 887 \(to be codified at ARK. CODE ANN. § 23-79-1602\).](#)



## ARKANSAS

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

Yes, but the coverage was not effective until January 1, 2016.

“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.”

[2015 Ark. Acts 887 \(to be codified at ARK. CODE ANN. § 23-79-1602\).](#)

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Arkansas defines “controlled substance” as “a drug, substance, or immediate precursor in Schedules I through VI.”

[ARK. CODE ANN. § 5-64-101.](#)

#### 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.”

[ARK. CODE ANN. § 5-64-308.](#)

# CALIFORNIA





## CALIFORNIA

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

California’s Telehealth Advancement Act of 2011 defines “telehealth” as

the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

[CAL. BUS. & PROF. CODE § 2290.5.](#)

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

None identified.

## PSYCHIATRISTS

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

[Medical Board of California](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes, a license issued by the Medical Board of California is required to practice telemedicine.

[CAL. BUS. & PROF. CODE § 2052\(a\).](#)

According to guidance posted on the Medical Board of California website, “Physicians using telehealth technologies to provide care to patients located in California must be licensed in California.”

[Medical Board of California, Practicing Medicine Through Telehealth Technology.](#)

Consultations are permitted with physicians, licensed in states other than California, as long as the following section is abided by:

Nothing in this chapter applies to any practitioner located outside this state, when in actual consultation, whether within this state or across state lines, with a licensed practitioner of this state, or when an invited guest of the California Medical Association or the California Podiatric Medical Association, or one of their component county societies, or of an approved medical or podiatric medical school or college for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is, at the time of the consultation, lecture, or



## CALIFORNIA

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

demonstration a licensed physician and surgeon or a licensed doctor of podiatric medicine in the state or country in which he or she resides. This practitioner shall not open an office, appoint a place to meet patients, receive calls from patients within the limits of this state, give orders, or have ultimate authority over the care or primary diagnosis of a patient who is located within this state.

[CAL. BUS. & PROF. CODE § 2060.](#)

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

A physician must obtain and document verbal consent from a patient regarding the use of telehealth services.

“Prior to the delivery of health care via telehealth, the health care provider at the originating site shall verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. The verbal consent shall be documented in the patient’s medical record.”

[CAL. BUS. & PROF. CODE § 2290.5.](#)

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

Yes, but with limitations that affect the provision of telehealth services.

California drug prescribing laws require an in-person examination before prescribing any drugs: “Prescribing, dispensing, or furnishing dangerous drugs without an appropriate prior examination and a medical indication, constitutes unprofessional conduct.” Per discussions with staff at the Medical Board of California, examinations may occur via telemedicine so long as those examinations meet the standard of care.

[CAL. BUS. & PROF. CODE § 2242.](#)

### 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.



## CALIFORNIA

### PSYCHOLOGISTS

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

[California Board of Psychology](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

Yes, a license issued by the California Board of Psychology is required.

California psychology practice laws allow for an out-of-state psychologist to practice in California, but for no more than 30 days, according to the following provision:

“Nothing in this chapter shall be construed to restrict or prevent a person who is licensed as a psychologist at the doctoral level in another state or territory of the United States or in Canada from offering psychological services in this state for a period not to exceed 30 days in any calendar year.”

[CAL. BUS. & PROF. CODE § 2912.](#)

According to guidance issued by the California Board of Psychology, a California license is required in order to provide psychology services to patients in California.

[California Board of Psychology, Notice to California Consumers Regarding the Practice of Psychology on the Internet.](#)

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

The same consent requirements applicable to psychiatrists apply to psychologists. *See the Psychiatrists section above.*

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

No.

**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.



## CALIFORNIA

### SOCIAL WORKERS

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

[California Board of Behavioral Sciences](#)

**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)?**

Yes, a license issued by the California Board of Behavioral Sciences is required.

“Only individuals who have received a license under this article may style themselves as ‘Licensed Clinical Social Workers.’”

[CAL. BUS. & PROF. CODE § 4996.](#)

However, consultations with out-of-state social workers are permitted in accordance with the following:

Nothing in this chapter shall apply to any clinical social worker from outside this state, when in actual consultation with a licensed practitioner of this state, or when an invited guest of a professional association, or of an educational institution for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is at the time of the consultation, lecture, or demonstration licensed to practice clinical social work in the state or country in which he or she resides. These clinical social workers shall not open an office or appoint a place to meet clients or receive calls from clients within the limits of this state.

[CAL. BUS. & PROF. CODE § 4996.16.](#)

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

The same consent requirements applicable to psychiatrists apply to social workers. See the Psychiatrists section above.

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

No.

**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.



## CALIFORNIA

### COUNSELORS

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

[California Board of Behavioral Sciences](#)

**What are the restrictions on the scope of practice for counselors 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)?**

Yes, a license issued by the California Board of Behavioral Sciences is required.

“A person shall not practice or advertise the performance of professional clinical counseling services without a license issued by the board.”

[CAL. BUS. & PROF. CODE § 4999.30.](#)

It also has been deemed unlawful by the California Board of Behavioral Sciences to “engage in the practice of professional clinical counseling without first having complied with the provisions of this chapter and without holding a valid license as required by this chapter.”

[CAL. BUS. & PROF. CODE § 4999.82.](#)

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

The same consent requirements applicable to psychiatrists apply to licensed professional clinical counselors. See the Psychiatrists section above.

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

No.

**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.



## CALIFORNIA

### MARRIAGE/FAMILY THERAPISTS

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

[California Board of Behavioral Sciences](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

Yes, a license issued by the California Board of Behavioral Sciences is required.

“No person may engage in the practice of marriage and family therapy unless he or she holds a valid license as a marriage and family therapist.”

[CAL. BUS. & PROF. CODE § 4980.](#)

“A person desiring to practice and to advertise the performance of marriage and family therapy services shall apply to the board for a license.”

[CAL. BUS. & PROF. CODE § 4980.30.](#)

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

The same consent requirements applicable to psychiatrists apply to licensed marriage and family therapists.  
See the Psychiatrists section above.

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.



## CALIFORNIA

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Board of Registered Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

Yes, a license issued by the Board of Registered Nursing is required.

California does not specifically use the term “APRN.” Rather, the California Board of Registered Nursing requires all nurses to obtain a nurse license and offers certificates for different nurse specialties. The Board frequently uses the term “nurse practitioner” and considers nurse practitioners to be one of several different types of advanced practice nurses. The Board offers the following guidance on nurse specialties:

The Board of Registered Nursing (BRN) certifies public health nurses and advanced practice nurses. Advanced practice nurses include nurse practitioners, nurse-midwives, clinical nurse specialists, and nurse anesthetists. The BRN also maintains a listing of psychiatric or mental health nurses. In each of these categories, the individual must first have a California registered nurse license before obtaining the certificate.

[Board of Registered Nursing, Advanced Practice Certification.](#)

The requirements for holding oneself out as a nurse practitioner are:

- Active licensure as a registered nurse in California; and one of the following:
  - » Successful completion of a program of study which conforms to board standards; or
  - » Certification by a national or state organization whose standards are equivalent to those set forth in Section 1484.

[CAL. HEALTH & SAFETY CODE § 1482.](#)

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

The same consent requirements applicable to psychiatrists apply to nurse practitioners.  
See the Psychiatrists section above.



## CALIFORNIA

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

Yes, with limited exceptions.

The California Nursing Practice Act allows nurses to order or furnish drugs under the supervision of a physician or surgeon:

The furnishing or ordering of drugs or devices by a nurse practitioner occurs under physician and surgeon supervision. Physician and surgeon supervision shall not be construed to require the physical presence of the physician, but does include (1) collaboration on the development of the standardized procedure, (2) approval of the standardized procedure, and (3) availability by telephonic contact at the time of patient examination by the nurse practitioner.

[CAL. BUS. & PROF. CODE § 2836.1.](#)

The California Nursing Practice Act gives a nurse prescribing authority through its definition of “ordering.” First, the Act defines “furnishing” as “(1) the ordering of a drug or device in accordance with the standardized procedure and (2) transmitting an order of a supervising physician and surgeon.” Second, the Act defines “ordering” as an order for medication which is dispensed to or for an ultimate user, issued by a nurse practitioner as an individual practitioner.

- A drug order issued pursuant to this section shall be treated in the same manner as a prescription of the supervising physician;
- All references to ‘prescription’ in this code and the Health and Safety Code shall include drug orders issued by nurse practitioners; and
- The signature of a nurse practitioner on a drug order issued in accordance with this section shall be deemed to be the signature of a prescriber for purposes of this code and the Health and Safety Code.

[CAL. BUS. & PROF. CODE § 2836.1.](#)

### 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.

### PRIVACY/CONFIDENTIALITY

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

None identified.



## CALIFORNIA

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

None identified.

**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?**

None identified.

### 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. Generally, health plans cannot require in-person contact to occur between a health care provider and a patient, nor can health plans limit the type of setting where services are provided for the patient or by the provider before payment is made for covered services appropriately provided through telehealth. These requirements also apply to health care service plan and Medi-Cal managed care plan contracts with the State Department of Health Care Services.

[CAL. HEALTH & SAFETY CODE § 1374.13.](#)

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

None identified.



## CALIFORNIA

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

Yes.

According to the *Medi-Cal Provider Manual*, in order for psychiatric procedures to be covered all of the following conditions must be met:

- A telemedicine service must use interactive audio, video or data communication to qualify for reimbursement. The E&M service must be in real-time or near real-time (delay in seconds or minutes) to qualify as an interactive two-way transfer of medical data and information between the patient and health care provider. Medi-Cal does not reimburse for telephone calls, electronic mail messages or facsimile transmissions.
- The audio-video 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 adequately complete all necessary components to document the level of service for the CPT-4 code billed. If a peripheral diagnostic scope is required to assess the patient, it must provide adequate resolution or audio quality for decision-making.
- The health care provider who has the ultimate responsibility for the care of the patient must be licensed in the State of California and enrolled as a Medi-Cal provider. The provider performing services via telemedicine whether from California or out of state, must be licensed in California and enrolled as a Medi-Cal provider.
- The health care provider at the originating site must first obtain oral consent from the patient prior to providing service via telehealth and shall document oral consent in the patient's medical record, including the following:
  - » A description of the risks, benefits and consequences of telemedicine
  - » The patient retains the right to withdraw at any time
  - » All existing confidentiality protections apply
  - » The patient has access to all transmitted medical information
  - » No dissemination of any patient images or information to other entities without further written consent
- All medical information transmitted during the delivery of health care via telemedicine must become part of the patient's medical record maintained by the licensed health care provider.

[California's Medicaid \(Medi-Cal\) Provider Manual on Telehealth](#)



## CALIFORNIA

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

California defines the term “controlled substance” to mean “a drug, substance, or immediate precursor which is listed in any Schedule in Section 11054, 11055, 11056, 11057, or 11058” (unless otherwise specified).

[CAL. HEALTH & SAFETY CODE § 11007.](#)

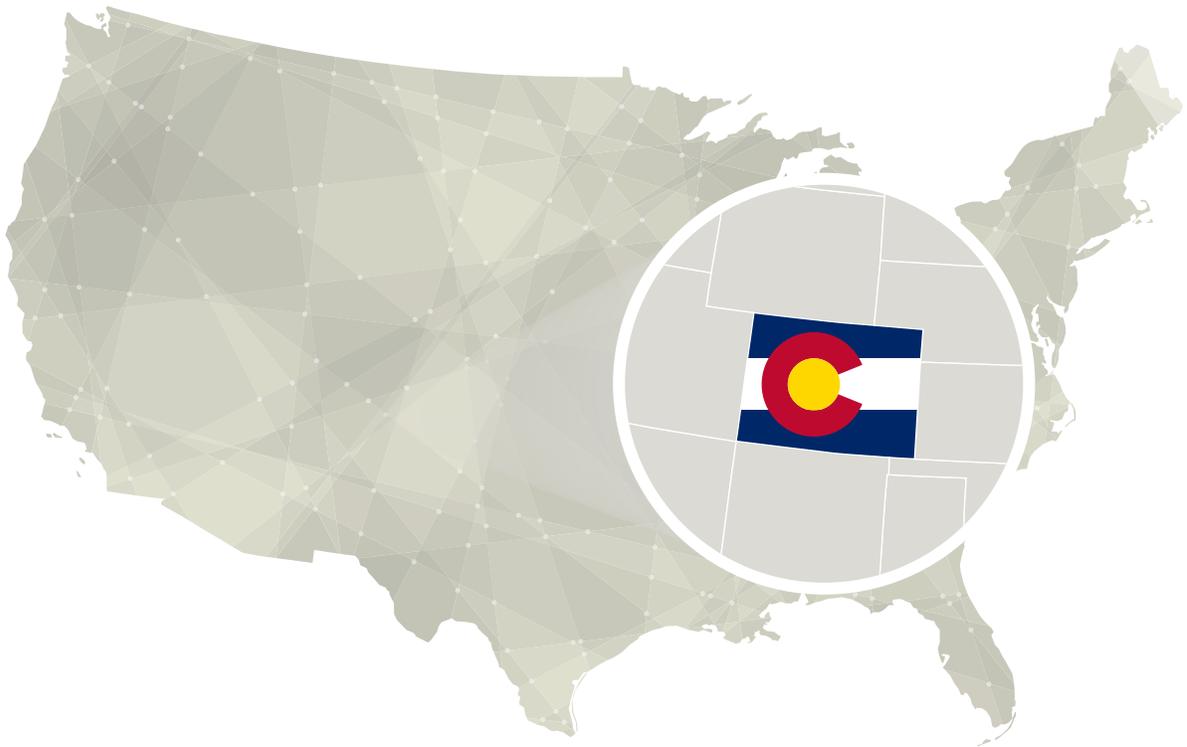
[CAL. HEALTH & SAFETY CODE § 11053-58](#) defines the substances that fall within each of the schedules.

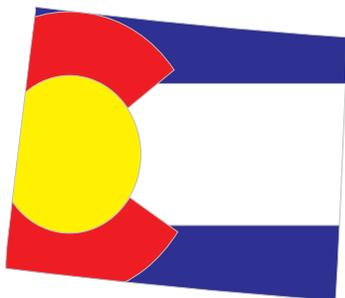
#### What are the requirements/laws governing the prescribing of “controlled substances”?

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

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

# COLORADO





## COLORADO

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

“Telemedicine” means “the delivery of medical services and any diagnosis, consultation, or treatment using interactive audio, interactive video, or interactive data communication.”

[COLO. REV. STAT. § 12-36-102.5.](#)

Effective January 1, 2017, “telehealth” will mean

a mode of delivery of health care services through telecommunications systems, including information, electronic, and communication technologies, to facilitate the assessment, diagnosis, consultation, treatment, education, care management, or self-management of a covered person’s health care while the covered person is located at an originating site and the provider is located at a distant site. The term includes synchronous interactions and store-and-forward transfers.

[COLO. REV. STAT. § 10-16-123\(l\).](#)

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

There is no standard definition, but the Colorado Department of Labor and Employment describes “telemental health” as a broad term that refers to providing mental health care from a distance, that includes video conferencing, the transmission of still images, e-health including patient portals, remote monitoring of vital signs, and continuing medical education.

[COLO. CODE REGS. § 1101-3-18.](#)

## PSYCHIATRISTS

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

[Colorado Medical Board](#)

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

According to the Colorado Medical Practice Act, psychiatrists may not deliver services via telemedicine that are outside of their scope of practice.

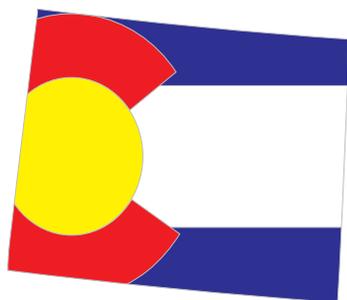
“Nothing in this paragraph authorizes physicians to deliver services outside their scope of practice or limits the delivery of health services by other licensed professionals, within the professional’s scope of practice, using advanced technology, including, but not limited to, interactive audio, interactive video, or interactive data communication.”

[COLO. REV. STAT. § 12-36-106 \(g\).](#)

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

Yes, a license issued by the Colorado Medical Board is required, with limited exceptions.

If a person who does not possess and has not filed a license to practice medicine, practice as a physician assistant, or practice as an anesthesiologist assistant in this state, as provided in this article, and who is not exempted from the



## COLORADO

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

licensing requirements under this article, performs any of the acts that constitute the practice of medicine as defined in this section, the person shall be deemed to be practicing medicine, practicing as a physician assistant, or practicing as an anesthesiologist assistant in violation of this article.

[COLO. REV. STAT. § 12-36-106 \(2\).](#)

Occasional consultation is permitted with an out-of-state physician who is not licensed in Colorado. However, the statute does not define “occasional.”

A person may engage in, and shall not be required to obtain a license or a physician training license under this article with respect to, any of the following acts:

- The occasional rendering of services in this state by a physician if the physician;
  - » Is licensed and lawfully practicing medicine in another state or territory of the United States without restrictions or conditions on the physician’s license;
  - » Does not have any established or regularly used medical staff membership or clinical privileges in this state;
  - » Is not party to any contract, agreement, or understanding to provide services in this state on a regular or routine basis;
  - » Does not maintain an office or other place for the rendering of such services;
  - » Has medical liability insurance coverage in the amounts required pursuant to section 13-64-302, C.R.S., for the services rendered in this state; and
  - » Limits the services provided in this state to an occasional case or consultation.

[COLO. REV. STAT. § 12-36-106 \(3\).](#)

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

None identified.

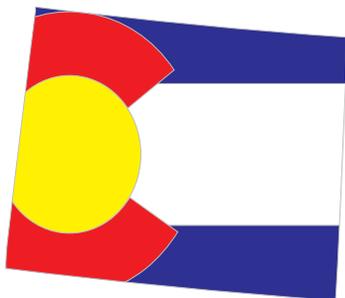
### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes. There do not seem to be limits on a psychiatrist’s ability to prescribe via telemedicine, based on a legislative statement that says, “It is the intent of the general assembly to recognize the practice of telemedicine as a legitimate means by which an individual may receive medical services from a health care provider without person-to-person contact with a provider.”

[COLO. REV. STAT. § 25.5-5-414.](#)

### 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.



## COLORADO

### PSYCHOLOGISTS

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

[State Board of Psychologist Examiners](#)

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

A psychologist must practice within his/her scope of practice when using teletherapy.

[State Board of Psychologist Examiners Policies, 30-1 Teletherapy Policy.](#)

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

Yes, a license issued by the State Board of Psychologist Examiners is required, with limited exceptions.

“Any person who practices or offers or attempts to practice as a psychologist, social worker, marriage and family therapist, licensed professional counselor, psychotherapist, or addiction counselor without an active license, registration, or certification issued under this article commits a class 2 misdemeanor and shall be punished.”

[COLO. REV. STAT. § 12-43-226 \(2\).](#)

Colorado allows an out-of-state psychologist, social worker, marriage and family therapist, licensed professional counselor, psychotherapist, or addiction counselor to practice under the following restrictions:

The provisions of this article shall not apply to a person who resides in another state and who is currently licensed or certified as a psychologist, marriage and family therapist, clinical social worker, professional counselor, or addiction counselor in that state to the extent that the licensed or certified person performs activities or services in this state, if the activities and services are:

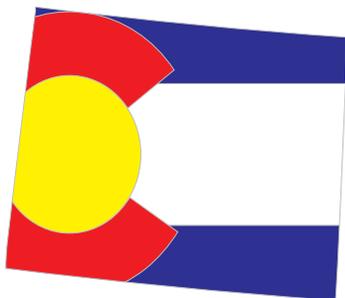
- Performed within the scope of the person’s license or certification;
- Do not exceed twenty days per year in this state;
- Are not otherwise in violation of this article; and
- Disclosed to the public that the person is not licensed or certified in this state.

[COLO. REV. STAT. § 12-43-215\(9\).](#)

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

The Board recommends an initial face-to-face visit before teletherapy is used and expects psychologists to have periodic face-to-face visits throughout the therapeutic relationship.

“It is recommended that the initial therapeutic contact be in person and adequate to provide a conclusive diagnosis and therapeutic treatment plan prior to implementing any psychotherapy through electronic means. The mental health professional is expected to establish an ongoing therapeutic relationship including face-to-face visits on a periodic basis thereafter.”



## 50-State Survey of Telemental/Telebehavioral Health

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

The Board outlines the following issues that psychologist must identify with regard to teletherapy:

Once a mental health professional chooses to provide psychotherapy via electronic means, the mental health professional is expected to carefully identify and address issues that involve:

- The agreed upon therapeutic means of communication between the client and the mental health professional. (i.e. when will face-to-face contact be appropriate, what method(s) of electronic communication will be utilized, what is the structure of the contractual relationship);
- Implementing written consent form(s) and proper disclosure(s) including, but not limited to the client's knowledge regarding security issues, confidentiality, structure, etc.;
- Ensuring that the therapeutic means of communication includes confidentiality and computer/cyber security;
- Determining the basis and ability for the mental health professional to support the rationale for the decision to choose a particular therapeutic method;
- Ensuring that the mental health professional is practicing within his/her scope of practice;
- Ensuring that the therapeutic means of communication that is chosen does not cause any potential harm to the client.

[State Board of Psychologist Examiners Policies, 30-1 Teletherapy Policy.](#)

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

No.

**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 modality used for teletherapy is at the discretion of the psychologist, there are no specified modalities.

“When listed, certified, registered, or licensed and treating clients within the State of Colorado, it is at the discretion of the mental health professional as to the type of modality of treatment format that is appropriate for the client.”

[State Board of Psychologist Examiners Policies, 30-1 Teletherapy Policy.](#)

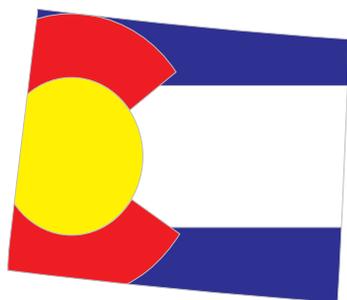
**SOCIAL WORKERS****What is the regulatory body in the state that governs the practice of social work?**

[State Board of Social Work Examiners](#)

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

The same restrictions that apply to psychologists also apply to social workers. *See* Psychologists section above.

[State Board of Social Work Examiners Policies, 30-1 Teletherapy Policy.](#)



## 50-State Survey of Telemental/Telebehavioral Health

**COLORADO**

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

Yes, a license issued by the State Board of Social Work Examiners is required, with limited exceptions. The same requirements applicable to psychologists also apply to social workers. *See* Psychologists section above.

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

The same criteria applicable to psychologists also apply to social workers. *See* Psychologists section above.

[State Board of Social Work Examiners Policies, 30-1 Teletherapy Policy.](#)

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

No.

**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 same modalities that may be used by psychologists also may be used by social workers. *See* Psychologists section above.

[State Board of Social Work Examiners Policies, 30-1 Teletherapy Policy.](#)

**COUNSELORS**

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

[State Board of Licensed Professional Counselor Examiners](#)

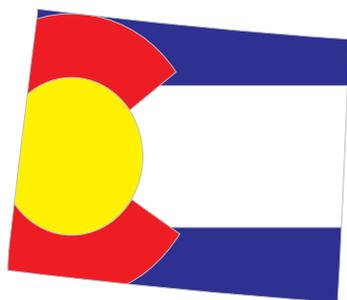
**What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?**

The same restrictions applicable to psychologists also apply to counselors. *See* Psychologists section above.

[State Board of Licensed Professional Counselor Examiners Policies, 30-1 Teletherapy Policy](#)

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

Yes, a license issued under the State Board of Licensed Professional Counselor Examiners is required, with limited exceptions. The same requirements applicable to psychologists also apply to counselors. *See* Psychologists section above.



## 50-State Survey of Telemental/Telebehavioral Health

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

The same criteria applicable to psychologists also apply to counselors. *See* Psychologists section above.

[State Board of Licensed Professional Counselor Examiners Policies, 30-1 Teletherapy Policy.](#)

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

No.

**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 same modalities that may be used by psychologists also may be used by counselors. *See* Psychologists section above.

[State Board of Licensed Professional Counselor Examiners Policies, 30-1 Teletherapy Policy.](#)

**MARRIAGE/FAMILY  
THERAPISTS**

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

[State Board of Marriage and Family Therapist Examiners](#)

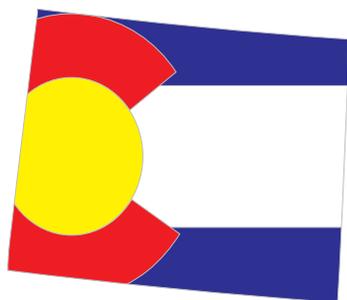
**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

The same restrictions that apply to psychologists also apply to marriage and family therapists. *See* Psychologists section above.

[State Board of Marriage and Family Therapist Examiners Policies, 30-1 Teletherapy Policy.](#)

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

Yes, a license issued by the State Board of Marriage and Family Therapist Examiners is required, with limited exceptions. The same requirements applicable to psychologists also apply to marriage and family therapists. *See* Psychologists section above.



## 50-State Survey of Telemental/Telebehavioral Health

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

The same criteria applicable to psychologists also apply to marriage and family therapists. *See* Psychologists section above.

[State Board of Marriage and Family Therapist Examiners Policies, 30-1 Teletherapy Policy.](#)

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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 same modalities that may be used by psychologists also may be used by marriage and family therapists. *See* Psychologists section above.

[State Board of Marriage and Family Therapist Examiners Policies, 30-1 Teletherapy Policy.](#)

 An orange banner with rounded ends containing the text 'ADVANCED PRACTICE REGISTERED NURSES (APRNs)'.
 **ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**
**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Colorado Board of Nursing](#)

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

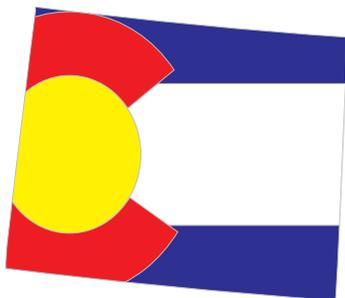
None identified.

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

Yes, a license issued by the Colorado Board of Nursing is required.

“Any person who practices or offers or attempts to practice practical or professional nursing without an active license issued under this article commits a class 2 misdemeanor and shall be punished.”

[COLO. REV. STAT. § 12-38-123.](#)



## 50-State Survey of Telemental/Telebehavioral Health

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

None identified.

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

Yes.

The statute regarding prescriptive authority for APRNs includes the following requirements, among others: An APRN may prescribe if registered in Colorado, listed on the Board of Nursing Advanced Practice Registry, and if the APRN has been issued a Prescriptive Authority (RXN) number by the Board of Nursing. Patients must be within the nurse's area of practice. The APRN may practice independently without a supervising physician and must have a personal DEA registration number to prescribe controlled substances.

[COLO. REV. STAT. § 12-38-111.6.](#)

**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?**

None identified.

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

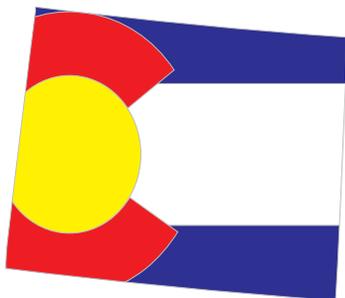
The teletherapy policy applicable to psychologists, social workers, counselors, and marriage and family therapists states that teletherapy providers are responsible for “ensuring that the therapeutic means of communication includes confidentiality and computer/cyber security . . . .”

[State Board of Psychologist Examiners Policies, 30-1 Teletherapy Policy.](#)

The *Colorado Medicaid Provider Manual* 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 client confidentiality guidelines when providing telemedicine services.
- Record-keeping should comply with Medicaid requirements in 10 CCR 2505-10, Section 8.130.
- 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.
- 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, and
  - » ensuring a system to routinely track and permanently record such electronic medical information.

[Colorado Medicaid Provider Telemedicine Manual.](#)



## COLORADO

### MINORS

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

None identified.

The teletherapy policy applicable to psychologists, social workers, counselors, and marriage and family therapists acknowledges the hurdle with regard to using teletherapy, stating that a challenge to teletherapy is determining whether the client is a minor.

[State Board of Psychologist Examiners Policies, 30-1 Teletherapy Policy.](#)

### FOLLOW-UP CARE

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

None identified.

However, the Colorado Medical Practice Act states that unprofessional conduct includes “any act or omission in the practice of telemedicine that fails to meet generally accepted standards of medical practice.”

[COLO. REV. STAT. § 12-36-117.](#)

#### 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?

None identified.

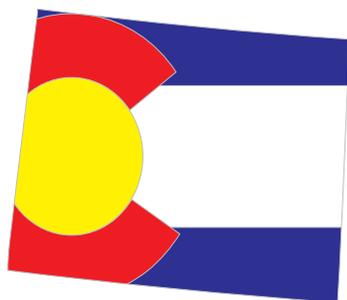
### COVERAGE & REIMBURSEMENT

#### 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, but the full parity statute does not become effective until January 1, 2017. Until then, there is a partial parity statute in place for telemedicine services provided to rural residents in the state.

On or after January 1, 2017, a health benefit plan that is issued, amended, or renewed in this state shall not require in-person contact between a provider and a covered person for services appropriately provided through telehealth, subject to all terms and conditions of the health benefit plan. Nothing in this section requires the use of telehealth when a provider determines that delivery of care through telehealth is not appropriate or when a covered person chooses not to receive care through telehealth. A provider is not obligated to document or demonstrate that a barrier to in-person care exists to trigger coverage under a health benefit plan for services provided through telehealth.

[COLO. REV. STAT. § 10-16-123.](#)



## COLORADO

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

None identified.

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

Yes. Colorado Medicaid provides reimbursement for select telemedicine services according to the following criteria:

To receive Medicaid reimbursement, telemedicine services must be provided “live”. The patient and the distant provider interact with one another in real time through an audio-video communications circuit. Peripherals may be included, such as transmission of a live ultrasound exam. [Telemedicine specifically excludes consultations provided by telephone (interactive audio) and fax machines.]

No enrolled managed care organization may require face-to-face contact between a provider and a client for services appropriately provided through telemedicine if:

- The client resides in a county with a population of 150,000 or fewer residents. **and**
- The county has the technology necessary to provide telemedicine services.

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

- The client retains the option to refuse the delivery of health care services via telemedicine at any time without affecting the client’s right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the client would otherwise be entitled.
- All applicable confidentiality protections shall apply to the services.
- The client shall have access to all medical information resulting from the telemedicine services as provided by applicable law for client access to his or her medical records.
- These requirements do not apply in an emergency.

[\*Colorado Medicaid Provider Telemedicine Manual.\*](#)

## 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, and marijuana concentrate.”

[COLO. REV. STAT. § 12-42.5-102\(8\).](#)

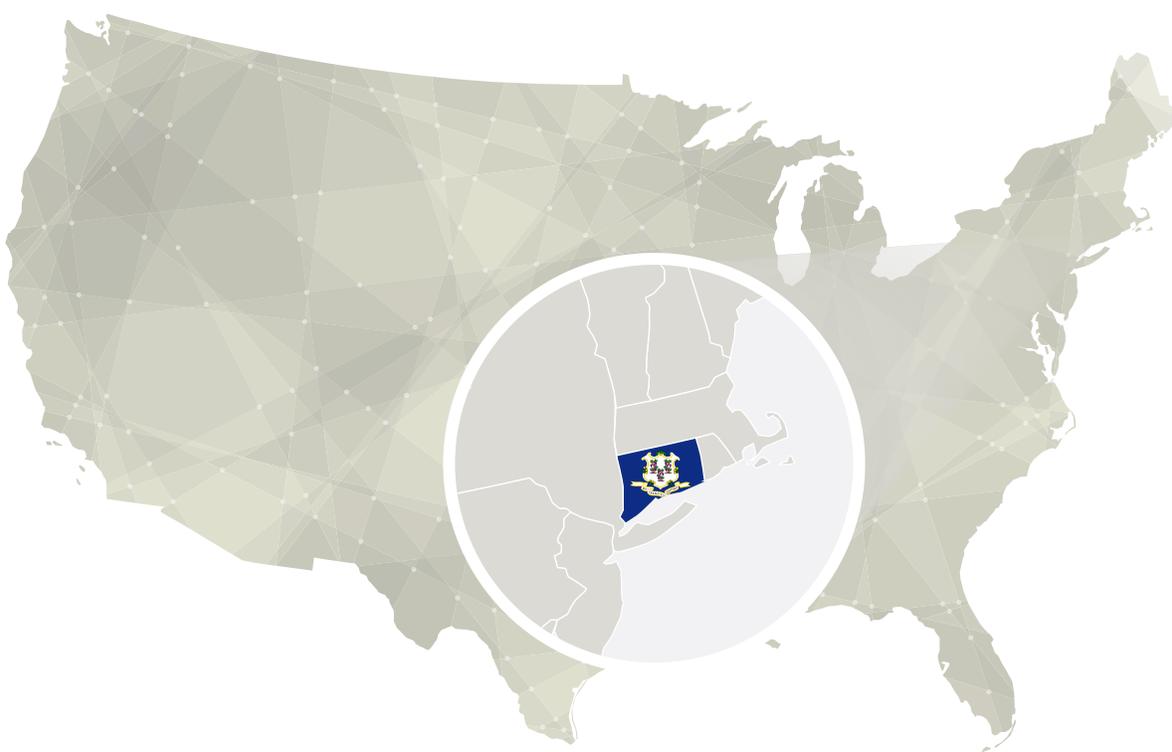
### What are the requirements/laws governing the prescribing of “controlled substances”?

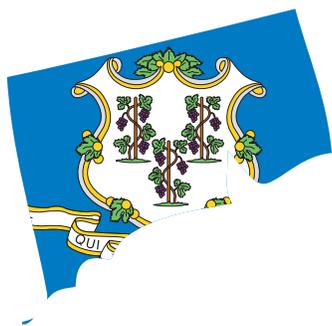
The Colorado Controlled Substances Act provides the following:

- A prescription order for a schedule III, IV, or V substance must not be filled or refilled more than six months after the date of the order or be refilled more than five times.
- A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner’s profession.”

[COLO. REV. STAT. § 18-18-308.](#)

# CONNECTICUT





## CONNECTICUT

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

Under the telehealth insurance parity provisions, “telehealth” is defined as

the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of a patient’s physical and mental health, and includes (A) interaction between the patient at the originating site and the telehealth provider at a distant site, and (B) synchronous interactions, asynchronous store and forward transfers or remote patient monitoring. Telehealth does not include the use of facsimile, audio-only telephone, texting or electronic mail.

[Conn. Public Act No. 15-88.](#)

With respect to a state demonstration project to provide telemedicine to Medicaid recipients at federally qualified community health centers,

“Telemedicine” means the use of interactive audio, interactive video or interactive data communication in the delivery of medical advice, diagnosis, care or treatment, and includes the types of services described in subsection (d) of section 20-9 and 42 C.F.R. § 410.78(a)(3). “Telemedicine” does not include the use of facsimile or audio-only telephone . . .

[CONN. GEN. STAT. § 17b-245c.](#)

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

None identified.

**PSYCHIATRISTS**

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

[Connecticut Medical Examining Board](#)

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

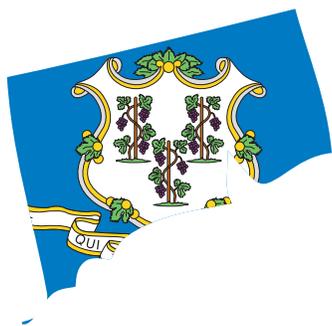
None identified.

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

Yes. Connecticut licensure is required, with limited exceptions.

The Connecticut medical practice act states that its licensure requirements

shall apply to any individual whose practice of medicine includes any ongoing, regular or contractual arrangement whereby, regardless of residency in this or any other state, he provides, through electronic communications or interstate commerce, diagnostic or treatment services, including primary diagnosis of pathology specimens, slides or images, to any person located in this state. In the case of electronic transmissions of radiographic images, licensure shall be required for an out-of-state physician who provides, through an ongoing, regular or contractual arrangement,



## CONNECTICUT

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

official written reports of diagnostic evaluations of such images to physicians or patients in this state. . . . [However, the licensure requirements of this section] shall not apply to a nonresident physician who, while located outside this state, consults . . . on an irregular basis with a physician licensed by section 20-10 who is located in this state.

[CONN. GEN. STAT. § 20-9\(d\).](#)

Further, the telehealth insurance parity provisions define “telehealth provider” to include any physician *licensed under chapter 370 of the CT general statutes* who is providing health care or other health services through the use of telehealth within such person’s scope of practice and in accordance with the standard of care applicable to the profession.

[Conn. Public Act No. 15-88.](#)

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

Per the telehealth insurance parity provisions, a telehealth provider may only provide telehealth services when he/she:

(A) [i]s communicating through real-time, interactive, two-way communication technology or store and forward technologies; (B) has access to, or knowledge of, the patient’s medical history, as provided by the patient, and the patient’s health record, including the name and address of the patient’s primary care provider, if any; (C) conforms to the standard of care applicable to the telehealth provider’s profession and expected for in-person care as appropriate to the patient’s age and presenting condition, except when the standard of care requires the use of diagnostic testing and performance of a physical examination, such testing or examination may be carried out through the use of peripheral devices appropriate to the patient’s condition; and (D) provides the patient with the telehealth provider’s license number and contact information.

Additionally, the provisions state the following:

At the time of the telehealth provider’s first telehealth interaction with a patient, the telehealth provider shall inform the patient concerning the treatment methods and limitations of treatment using a telehealth platform and, after providing the patient with such information, obtain the patient’s consent to provide telehealth services. The telehealth provider shall document such notice and consent in the patient’s health record.

[Conn. Public Act No. 15-88.](#)

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

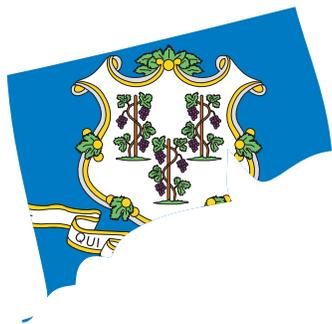
Yes.

However, physicians may not prescribe Schedule I, II, or III controlled substances through the use of telehealth.

[Conn. Public Act No. 15-88.](#)

“In the absence of a documented patient evaluation that includes a physical examination, any request for a controlled substance issued solely on the results of answers to an electronic questionnaire shall be considered to be issued outside the context of a valid practitioner-patient relationship and not be a valid prescription. For the purposes of this section, ‘electronic questionnaire’ means any form in an electronic format that may require personal, financial or medical information from a consumer or patient.”

[CONN. GEN. STAT. § 20-613a.](#)



## CONNECTICUT

### 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, as defined above, “telehealth” generally does not include the use of facsimile, audio-only telephone, texting, or electronic mail (real-time, interactive, two-way communication technology, or store and forward technologies are required).

[Conn. Public Act No. 15-88.](#)

## PSYCHOLOGISTS

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

[Connecticut Board of Examiners of Psychologists](#)

### What are the restrictions on the scope of practice for psychologists 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)?

None identified. However, the telehealth insurance parity provisions define “telehealth provider” to include any psychologist *licensed under chapter 383* of the CT general statutes who is providing health care or other health services through the use of telehealth within such person’s scope of practice and in accordance with the standard of care applicable to the profession.

[Conn. Public Act No. 15-88.](#)

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

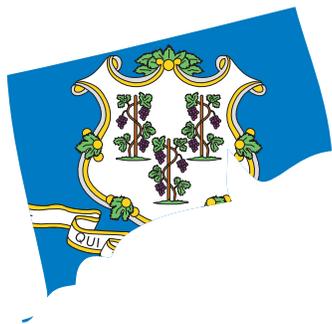
The requirements applicable to psychiatrists detailed above also apply to psychologists. *See* Psychiatrists section above.

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

No.

### 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 requirements applicable to psychiatrists detailed above also apply to psychologists. *See* Psychiatrists section above.



## CONNECTICUT

### SOCIAL WORKERS

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

[Connecticut Department of Public Health](#)

**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)?**

None identified. However, the telehealth insurance parity provisions define “telehealth provider” to include any social worker *licensed under chapter 383b of the CT general statutes* who is providing health care or other health services through the use of telehealth within such person’s scope of practice and in accordance with the standard of care applicable to the profession.

[Conn. Public Act No. 15-88.](#)

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

The requirements applicable to psychiatrists detailed above also apply to social workers. *See* Psychiatrists section above.

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

No.

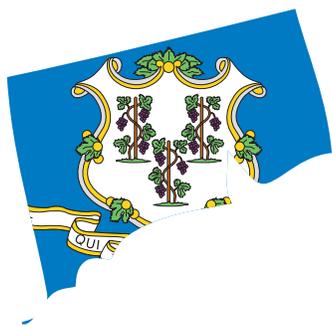
**What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?**

The requirements applicable to psychiatrists detailed above also apply to social workers. *See* Psychiatrists section above.

### COUNSELORS

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

[Connecticut Department of Public Health](#)



## CONNECTICUT

### What are the restrictions on the scope of practice for counselors 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)?

None identified. However, the telehealth insurance parity provisions define “telehealth provider” to include any professional counselor *licensed under chapter 383c of the CT general statutes* who is providing health care or other health services through the use of telehealth within such person’s scope of practice and in accordance with the standard of care applicable to the profession.

[Conn. Public Act No. 15-88.](#)

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

The requirements applicable to psychiatrists detailed above also apply to counselors. *See* Psychiatrists section above.

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

No.

### 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 requirements applicable to psychiatrists detailed above also apply to counselors. *See* Psychiatrists section above.

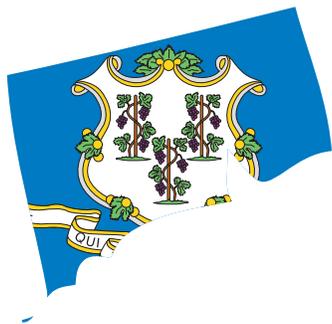
## MARRIAGE/FAMILY THERAPISTS

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

[Connecticut Department of Public Health](#)

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

None identified.



## CONNECTICUT

### 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 telehealth insurance parity provisions define “telehealth provider” to include any marital and family therapist *licensed under chapter 383a of the CT general statutes* who is providing health care or other health services through the use of telehealth within such person’s scope of practice and in accordance with the standard of care applicable to the profession.

[Conn. Public Act No. 15-88.](#)

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

The requirements applicable to psychiatrists detailed above also apply to marriage and family therapists.  
See Psychiatrists section above.

### Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

### 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 requirements applicable to psychiatrists detailed above also apply to marriage and family therapists.  
See Psychiatrists section above.

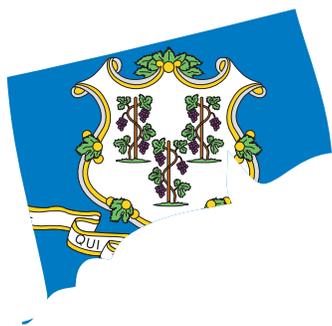
## ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Connecticut Board of Examiners for Nursing](#)

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

None identified.



## CONNECTICUT

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

Yes. Connecticut licensure appears to be required.

According to informal guidance released by the Board in 2005, “Connecticut has no regulations specifically governing telephonic case management.” However, the guidance states that “[i]f you are practicing nursing as defined by the General Statutes of Connecticut and caring for Connecticut residents, one must have a Connecticut Nursing License, Section 20-87a Nursing.”

[Conn. Board of Examiners for Nursing, Guidance Re: Telephonic Case Management \(2005\).](#)

Further, the telehealth insurance parity provisions define “telehealth provider” to include any APRN *licensed under chapter 378 of the CT general statutes* who is providing health care or other health services through the use of telehealth within such person’s scope of practice and in accordance with the standard of care applicable to the profession.

[Conn. Public Act No. 15-88.](#)

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

The requirements applicable to psychiatrists detailed above also apply to APRNs. *See* Psychiatrists section above.

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

Yes, provided applicable requirements are met.

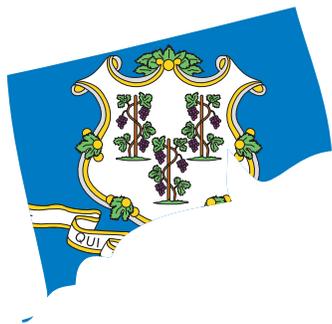
[CONN. GEN. STAT. § 20-87a](#); *see* [CONN. GEN. STAT. § 21a-252](#)  
(detailing restrictions on APRN prescribing of controlled substances).

However, APRNs may not prescribe Schedule I, II, or III controlled substances through the use of telehealth.

[Conn. Public Act No. 15-88.](#)

### 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 requirements applicable to psychiatrists detailed above also apply to APRNs. *See* Psychiatrists section above.



## CONNECTICUT

### PRIVACY/CONFIDENTIALITY

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

Per the telehealth insurance parity provisions, at the time of each telehealth interaction, the telehealth provider must “ask the patient whether the patient consents to the telehealth provider’s disclosure of records concerning the telehealth interaction to the patient’s primary care provider. If the patient consents to such disclosure, the telehealth provider shall provide such records to the patient’s primary care provider, in a timely manner, in accordance with the provisions of sections 20-7b to 20-7e, inclusive, of the general statutes.”

Further, the provision of telehealth services and health records maintained and disclosed as part of a telehealth interaction must comply with the provisions of HIPAA.

[Conn. Public Act No. 15-88.](#)

### MINORS

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

None identified.

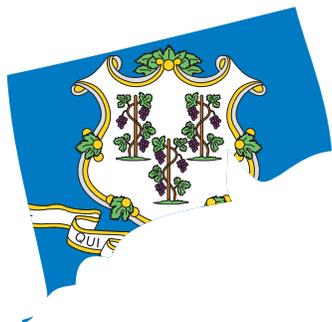
### FOLLOW-UP CARE

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

None identified.

#### 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?

None identified.



## CONNECTICUT

### 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. As of January 1, 2016, Connecticut requires commercial insurers to cover telehealth services to the same extent that those services are covered through in-person visits. Specifically, coverage must be provided for “medical advice, diagnosis, care or treatment provided through telehealth [(as defined in the first row of the chart)], to the extent coverage is provided for such advice, diagnosis, care or treatment when provided through in-person consultation between the insured and a health care provider.”

In addition, “[n]o telehealth provider shall charge a facility fee for telehealth services.”

[Conn. Public Act No. 15-88.](#)

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

None identified.

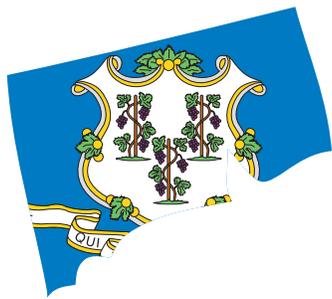
#### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

No.

Connecticut’s Medical Assistance Program will not pay for information or services:

- furnished by a psychologist over the telephone;
- provided to a client by a physician or psychiatrist electronically or over the telephone; or
- furnished by the licensed behavioral health clinician to the client electronically or over the telephone, except for case management services provided to clients age 18 and under.

Conn. Medical Assistance Program, Provider Manual: Psychologists, Sec. 17b-262-472; Conn. Medical Assistance Program, Provider Manual: Physicians and Psychiatrists, Sec. 17b-262-342; Conn. Medical Assistance Program, Provider Manual: Licensed Behavioral Health Clinicians in Independent Practice, Sec. 17b-262-918 (all provider manuals are available [here](#)).



## CONNECTICUT

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Connecticut law defines both “controlled drugs” and “controlled substances.”

“Controlled drugs” are defined as

those drugs which contain any quantity of a substance which has been designated as subject to the federal Controlled Substances Act, or which has been designated as a depressant or stimulant drug pursuant to federal food and drug laws, or which has been designated by the Commissioner of Consumer Protection pursuant to section 21a-243, as having a stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and as having a tendency to promote abuse or psychological or physiological dependence, or both. Such controlled drugs are classifiable as amphetamine-type, barbiturate-type, cannabis-type, cocaine-type, hallucinogenic, morphine-type and other stimulant and depressant drugs. Specifically excluded from controlled drugs and controlled substances are alcohol, nicotine and caffeine.

“Controlled substance” is defined as “a drug, substance, or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to section 21a-243.”

[CONN. GEN. STAT. § 21a-240.](#)

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

Every practitioner who distributes, administers or dispenses any controlled substance or who proposes to engage in distributing, prescribing, administering or dispensing any controlled substance within [Connecticut] shall (1) obtain a certificate of registration issued by the Commissioner of Consumer Protection in accordance with the provisions of this chapter, and (2) register for access to the electronic prescription drug monitoring program established pursuant to subsection (j) of section 21a-254.

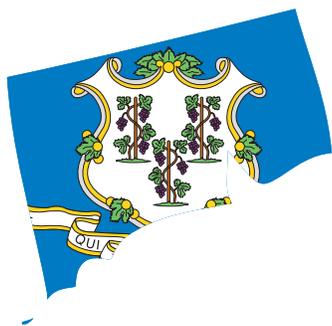
“Practitioners” include physicians and APRNs, among others.

[CONN. GEN. STAT. § 21a-317.](#)

Under Connecticut law,

(a) All prescriptions for controlled drugs shall include (1) the name and address of the patient, or the name and address of the owner of an animal and the species of the animal, (2) whether the patient is an adult or a child, or his specific age, (3) the compound or preparation prescribed and the amount thereof, (4) directions for use of the medication, (5) the name and address of the prescribing practitioner, (6) the date of issuance, and (7) the Federal Registry number of the practitioner. No prescription blank containing a prescription for a schedule II substance shall contain more than one prescription.

(b) Written prescriptions shall be written in ink or in indelible pencil or by typewriter. No duplicate, carbon or photographic copies and no printed or rubber-stamped orders shall be considered valid prescriptions . . . No prescription or order for any controlled substance issued by a practitioner to an inanimate object or thing shall be considered a valid prescription within the meaning of this chapter.



## CONNECTICUT

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

(c) Prescriptions for schedule II substances, if in writing, shall be signed by the prescribing practitioner at the time of issuance and previously signed orders for such schedule II substances shall not be considered valid prescriptions within the meaning of this chapter. No practitioner shall prescribe, dispense or administer schedule II sympathomimetic amines as anorectics, except as may be authorized by regulations adopted by the Departments of Public Health and Consumer Protection acting jointly. . . .

(d) To the extent permitted by the federal Controlled Substances Act, 21 USC 801, as from time to time amended, a prescribing practitioner may issue an oral order or an electronically transmitted prescription order and, except as otherwise provided by regulations adopted pursuant to sections 21a-243, 21a-244 and 21a-244a, such oral order or electronically transmitted prescription order shall be promptly reduced to writing on a prescription blank or a hard-copy printout or created as an electronic record and filed by the pharmacist filling it. . . . “[E]lectronically transmitted” means transmitted by facsimile machine, computer modem or other similar electronic device.

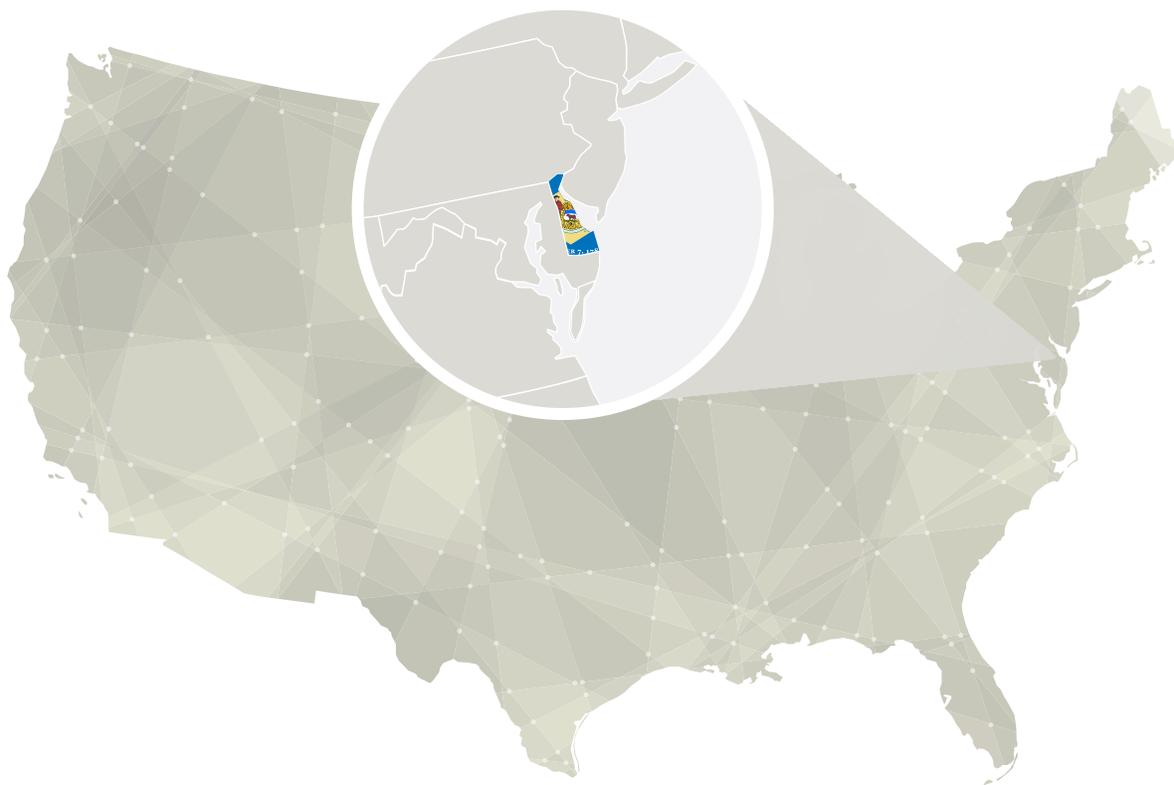
(e) To the extent permitted by the federal Controlled Substances Act, in an emergency the dispensing of schedule II substances may be made upon the oral order of a prescribing registrant known to or confirmed by the filling pharmacist who shall promptly reduce the oral order to writing on a prescription blank, provided, in such cases such oral order shall be confirmed by the proper completion and mailing or delivery of a prescription prepared by the prescribing registrant to the pharmacist filling such oral order within seventy-two hours after the oral order has been given. Such prescription of the registrant shall be affixed to the temporary prescription prepared by the pharmacist and both prescriptions shall be maintained on file as required in this chapter.

(f) All prescriptions for controlled substances shall comply fully with any additional requirements of the federal food and drug laws, the federal Controlled Substances Act, and state laws and regulations adopted under this chapter. . . .

(m) A practitioner authorized to prescribe controlled substances shall not prescribe anabolic steroids for the sole purpose of enhancing a patient’s athletic ability or performance.

[CONN. GEN. STAT. § 21a-249.](#)

# DELAWARE





## DELAWARE

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

“Telehealth” means “the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.”

“Telemedicine” means

a form of telehealth which is the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a health-care provider practicing within his or her scope of practice as would be practiced in-person with a patient, and legally allowed to practice in the State, while such patient is at an originating site and the health-care provider is at a distant site.

[DEL. CODE ANN. tit. 18, § 3370](#) (insurance code); [DEL. CODE ANN. tit. 24, § 1702](#) (medical practice act).

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

Delaware regulations define “telepsychology” as “the practice of psychology by distance communication technology such as but not necessarily limited to telephone, email, Internet-based communications, and videoconferencing.”

[24-3500 DEL. ADMIN. CODE § 18.1.](#)

## PSYCHIATRISTS

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

[Delaware Board of Medical Licensure and Discipline](#)

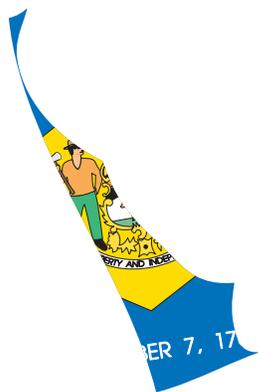
### What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

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)?

Per the “telemedicine” definition set forth above and the definition of “distant site” (i.e., “a site at which a health-care provider legally allowed to practice in the State is located while providing health-care services by means of telemedicine”), it appears that health care practitioners providing telemedicine services must be legally allowed to practice in Delaware.

[DEL. CODE ANN. tit. 18, § 3370](#) (insurance code); [DEL. CODE ANN. tit. 24, § 1702](#) (medical practice act).

**DELAWARE**

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

A Delaware medical license is generally required to practice psychiatry in Delaware: “A person may not practice medicine in this State unless the person . . . [h]as a certificate to practice medicine issued by the Board of Medical Licensure and Discipline . . . .” However, an out-of-state physician may, without obtaining a Delaware license, engage in consultation with a Delaware-licensed physician. Such consultation may be performed telephonically, electronically, or in person, and consists of obtaining a history and performing a physical examination, review of records and imaging pathology, or similar studies. Consultation includes providing opinions and recommendations and is limited to no more than 12 times per year (anything more requires a Delaware license).

[DEL. CODE ANN. tit. 24, § 1720](#); [DEL. CODE ANN. tit. 24, § 1727](#); [24-1700 DEL. CODE REGS. § 6](#).

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

Physicians who utilize telemedicine shall, if such action would otherwise be required in the provision of the same service not delivered via telemedicine, ensure that a proper physician-patient relationship is established either in-person or through telehealth which includes but is not limited to:

- Fully verifying and authenticating the location and, to the extent possible, identifying the requesting patient;
- Disclosing and validating the provider’s identity and applicable credential or credentials;
- Obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including informed consents regarding the use of telemedicine technologies as indicated in [bullet 5];
- Establishing a diagnosis through the use of acceptable medical practices, such as patient history, mental status examination, physical examination (unless not warranted by the patient’s mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contra-indications, or both, to treatment recommended or provided;
- Discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options;
- Ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care; and
- Providing a written visit summary to the patient.

In addition, Delaware law provides the following:

Physicians using telemedicine technologies to provide medical care to patients located in Delaware must, prior to a diagnosis and treatment, either provide:

- An appropriate examination in-person;
- Have another Delaware-licensed practitioner at the originating site with the patient at the time of the diagnosis;
- The diagnosis must be based using both audio and visual communication; or
- The service meets standards of establishing a patient-physician relationship included as part of evidenced-based clinical practice guidelines in telemedicine developed by major medical specialty societies, such as those of radiology or pathology.

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

However, telemedicine can be practiced without a physician-patient relationship during the following:

- Informal consultation performed by a physician outside the context of a contractual relationship and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;
- Furnishing of medical assistance by a physician in case of an emergency or disaster if no charge is made for the medical assistance; or
- Episodic consultation by a medical specialist located in another jurisdiction who provides such consultation services on request to a licensed health-care professional.

Note also the following:

The physician treating a patient through telemedicine must maintain a complete record of the patient's care which must follow all applicable state and federal statutes and regulations for recordkeeping, confidentiality, and disclosure to the patient. . . .

Telemedicine shall include, at such time as feasible and when appropriate, utilizing the Delaware Health Information Network (DHIN) in connection with the practice.

[DEL. CODE ANN. tit. 24, § 1769D.](#)

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

Yes.

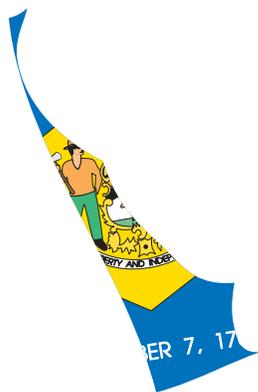
However, these conditions/limitations apply:

- Without a prior and proper patient-provider relationship [(as detailed above)], providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult. . . .
- Prescriptions made through telemedicine and under a physician-patient relationship may include controlled substances, subject to limitations as set by the Board. . . .
- 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 (encounter in person) settings.

[DEL. CODE ANN. tit. 24, § 1769D.](#)

**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 insurance parity provisions apply to services delivered by "health-care providers" via "telemedicine" (as defined in the "telemedicine" definition above). The term "health-care provider" does not appear to be defined.



## DELAWARE

### PSYCHOLOGISTS

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

[Delaware Board of Examiners of Psychologists](#)

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

None identified. However, Delaware regulations state, “Licensees recognize that telepsychology is not appropriate for all psychological problems and clients, and decisions regarding the appropriate use of telepsychology are made on a case-by-case basis.”

[24-3500 DEL. ADMIN. CODE § 18.6.](#)

Further, the psychology practice act notes that the practice of psychology “may be provided through the use of telemedicine in a manner deemed appropriate by regulation. Services also may include participation in telehealth as further defined in regulation.” This language was effective only as of Jan. 1, 2016. It does not appear that regulations further defining the telemedicine scope of practice for psychologists have been issued yet.

[DEL. CODE ANN. tit. 24, § 3502.](#)

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

A Delaware license as a psychologist is required to practice telepsychology.

[24-3500 DEL. ADMIN. CODE § 18.2.](#)

Additionally, Delaware regulations require that “[l]icensees establish and maintain current competence in the professional practice of telepsychology through continuing education, consultation, or other procedures, in conformance with prevailing standards of scientific and professional knowledge. Licensees establish and maintain competence in the appropriate use of the information technologies utilized in the practice of telepsychology.”

[24-3500 DEL. ADMIN. CODE § 18.5.](#)

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

Licensees practicing telepsychology shall:

- Conduct a risk benefit analysis and document findings specific to:
  - » Whether a client’s presenting problems and apparent condition are consistent with the use of telepsychology to the client’s benefit; and
  - » Whether the client has sufficient knowledge and skills in the use of technology involved in rendering the service or can use a personal aid or assistive device to benefit from the service.

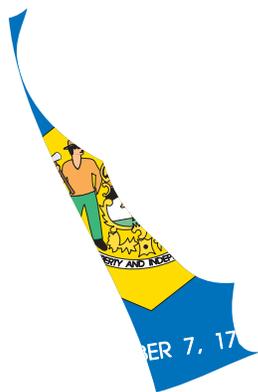
**DELAWARE****What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?** CONTINUED

- Not provide telepsychology services to any person or persons when the outcome of the analysis required [above] is inconsistent with the delivery of telepsychology services, whether related to clinical or technological issues;
- 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 the client alternative ways 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, but not necessarily limited to, the client experiencing a suicidal or homicidal crisis;
- Licensees, 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 telepsychology 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 psychological services;
  - » Potential risks to confidentiality of information due to the use of distance technology;
  - » Potential risks of sudden and unpredictable disruption of telepsychology services and how an alternative means of re-establishing electronic or other connection will be used under such 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; and
- Ensure that confidential communications stored electronically cannot be recovered and/or accessed by unauthorized persons when the licensee disposes of electronic equipment and data.

[24-3500 DEL. ADMIN. CODE § 18.6.](#)

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

No.



## DELAWARE

### 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, the insurance parity provisions apply to services delivered by “health-care providers” via “telemedicine” (as defined in the “telemedicine” definition above). The term “health-care provider” does not appear to be defined.

Also, the definition of “telepsychology” states that it includes, but is not limited to, “telephone, email, Internet-based communications, and videoconferencing.”

[24-3500 DEL. ADMIN. CODE § 18.1.](#)

## SOCIAL WORKERS

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

[Delaware Board of Clinical Social Work Examiners](#)

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

None identified. However, the social work practice act notes that clinical social work “may be provided through the use of telemedicine in a manner deemed appropriate by regulation. Services also may include participation in telehealth as further defined in regulation.” This language was effective only as of Jan. 1, 2016. It does not appear that regulations further defining the telemedicine scope of practice for social workers have been issued yet.

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

The social work practice act includes a very similar definition of “telemedicine” as is outlined above. Specifically, with respect to licensure, the definition states that telemedicine is performed “by a licensee practicing within his or her scope of practice.”

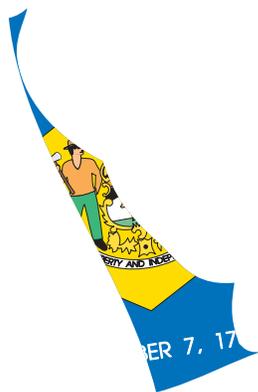
A state license is required to practice in the Delaware:

No person shall engage in the independent practice of clinical social work or hold himself or herself out to the public in this State as being qualified to practice the same; or use in connection with that person’s name, or otherwise assume or use, any title or description conveying or tending to convey the impression that the person is qualified to practice clinical social work, unless such person has been duly licensed under this chapter.

[DEL. CODE ANN. tit. 24, §§ 3902-3903.](#)

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

None identified.



## DELAWARE

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

No.

**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, the “telehealth” and “telemedicine” definitions in the social work practice act closely mirror those outlined above.

The insurance parity provisions apply to services delivered by “health-care providers” via “telemedicine” (as defined in the “telemedicine” definition above). The term “health-care provider” does not appear to be defined.

### COUNSELORS

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

[Delaware Board of Mental Health and Chemical Dependency Professionals](#)

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

None identified. However, the mental health and chemical dependency professionals practice act notes that counseling services “may be provided through the use of telemedicine in a manner deemed appropriate by regulation. Services also may include participation in telehealth as further defined in regulation.” This language was effective only as of Jan. 1, 2016. It does not appear that regulations further defining the telemedicine scope of practice for counselors have been issued yet.

[DEL. CODE ANN. tit. 24, § 3031.](#)

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

The mental health and chemical dependency professionals practice act includes a very similar definition of “telemedicine” as is outlined above. Specifically, with respect to licensure, the definition states that telemedicine is performed “by a licensee practicing within his or her scope of practice.”

[DEL. CODE ANN. tit. 24, § 3002.](#)

A license issued by the Delaware Board of Mental Health and Chemical Dependency Professionals is generally required to practice as a counselor in Delaware. (“No person shall hold himself or herself out to the public as a licensed professional counselor of mental health or licensed associate counselor of mental health unless the person is licensed in accordance with this chapter.”)

[DEL. CODE ANN. tit. 24, § 3030.](#)

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

None identified.

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

No.

**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, the “telehealth” and “telemedicine” definitions in the mental health and chemical dependency professionals practice act closely mirror those outlined above.

The insurance parity provisions apply to services delivered by “health-care providers” via “telemedicine” (as defined in the “telemedicine” definition above). The term “health-care provider” does not appear to be defined.

**MARRIAGE/FAMILY  
THERAPISTS**

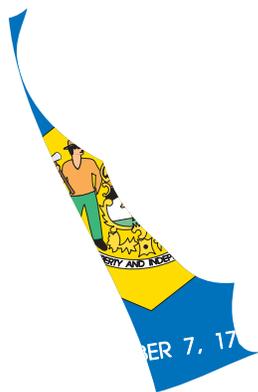
**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Delaware Board of Mental Health and Chemical Dependency Professionals](#)

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

None Identified. However, the mental health and chemical dependency professionals practice act notes that marriage and family therapy services “may be provided through the use of telemedicine in a manner deemed appropriate by regulation. Services also may include participation in telehealth as further defined in regulation.” This language was effective only as of Jan. 1, 2016. It does not appear that regulations further defining the telemedicine scope of practice for marriage and family therapists have been issued yet.

[DEL. CODE ANN. tit. 24, § 3051.](#)



## DELAWARE

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

The mental health and chemical dependency professionals practice act includes a very similar definition of “telemedicine” as is outlined above. Specifically, with respect to licensure, the definition states that telemedicine is performed “by a licensee practicing within his or her scope of practice.”

[DEL. CODE ANN. tit. 24, § 3002.](#)

A license issued by the Delaware Board of Mental Health and Chemical Dependency Professionals is generally required to practice as a marriage and family therapist in Delaware. (“No person shall hold himself or herself out to the public as a licensed marriage and family therapist or a licensed associate marriage and family therapist unless the person is licensed in accordance with this chapter.”)

[DEL. CODE ANN. tit. 24, § 3050.](#)

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

None identified.

### Does a marriage/family therapist have prescribing authority?

If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

### 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?

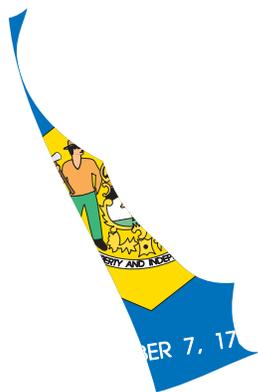
None identified. However, the “telehealth” and “telemedicine” definitions in the mental health and chemical dependency professionals practice act closely mirror those outlined above.

The insurance parity provisions apply to services delivered by “health-care providers” via “telemedicine” (as defined in the “telemedicine” definition above). The term “health-care provider” does not appear to be defined.

## ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Delaware Board of Nursing](#)

**DELAWARE****What are the restrictions on the scope of practice for APRNs 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)?**

The nurse practice act includes a very similar definition of “telemedicine” as is outlined above. Specifically, with respect to licensure, the definition states that telemedicine is performed “by a licensee practicing within his or her scope of practice.”

[DEL. CODE ANN. tit. 24, § 1902.](#)

APRNs are required to be licensed in Delaware.

[24-1900 DEL. ADMIN. CODE § 8.9.](#)

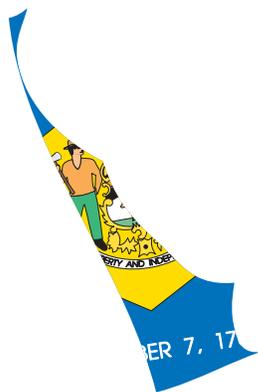
**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

APRNs who utilize telemedicine shall, if such action would otherwise be required in the provision of the same service not delivered via telemedicine, ensure that a proper APRN-patient relationship is established either in-person or through telehealth which includes but is not limited to:

- Fully verifying and authenticating the location and, to the extent possible, identifying the requesting patient;
- Disclosing and validating the provider’s identity and applicable credential or credentials;
- Obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including informed consents regarding the use of telemedicine technologies as indicated in [bullet 5];
- Establishing a diagnosis through the use of acceptable medical practices, such as patient history, mental status examination, physical examination (unless not warranted by the patient’s mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contraindications, or both, to treatment recommended or provided;
- Discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options;
- Ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care; and
- Providing a written visit summary to the patient.

Note also the following:

- The APRN treating a patient through telemedicine must maintain a complete record of the patient’s care which must follow all applicable state and federal statutes and regulations for recordkeeping, confidentiality, and disclosure to the patient. . . .



## DELAWARE

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

- Telemedicine shall include, at such time as feasible and when appropriate, utilizing the Delaware Health Information Network (DHIN) in connection with the practice.

However, these requirements do not apply to the following:

1. Informal consultation performed by an APRN outside the context of a contractual relationship and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;
2. Furnishing of medical assistance by an APRN in case of an emergency or disaster if no charge is made for the medical assistance; or
3. “Episodic consultation by a medical specialist located in another jurisdiction who provides such consultation services on request to a person licensed in [Delaware].

[DEL. CODE ANN. tit. 24, § 1933.](#)

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

Yes.

“Generic Functions of the Advanced Practice Nurse within the Specialized Scope of Practice include but are not limited to . . . prescribing medications and treatments independently . . . .”

[DEL. CODE ANN. tit. 24, § 1900.](#)

However, these conditions/limitations apply:

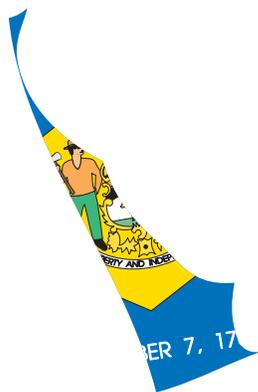
- Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (encounter in person) settings. . . .
- Without a prior and proper patient-provider relationship [(as detailed above)], providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult. . . .
- Prescriptions made through telemedicine and under an APRN-patient relationship may include controlled substances, subject to limitations as set by the Board.

[DEL. CODE ANN. tit. 24, § 1933.](#)

### 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, the “telehealth” and “telemedicine” definitions in the nurse practice act closely mirror those outlined above.

The insurance parity provisions apply to services delivered by “health-care providers” via “telemedicine” (as defined in the “telemedicine” definition above). The term “health-care provider” does not appear to be defined.

**DELAWARE****PRIVACY/CONFIDENTIALITY****Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?**

Yes.

As noted above in the Psychologists section, Board of Psychology regulations require that “[l]icensees, 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.” In addition, “[l]icensees [e]nsure that confidential communications stored electronically cannot be recovered and/or accessed by unauthorized persons when the licensee disposes of electronic equipment and data.”

[24-3500 DEL. ADMIN. CODE § 18.6.7.](#)

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

None identified.

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

As noted above in the Psychologists section, Board of Psychology regulations require that licensees “[p]rovide 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.”

[24-3500 DEL. ADMIN. CODE § 18.6.6.](#)

Additionally, both psychiatrists and APRNs are required to “[e]nsure the availability of the distant site provider or coverage of the patient for appropriate follow-up care.” (See Psychiatrist and APRN sections above).

**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?**

None identified.

**DELAWARE****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.

Delaware requires that

[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. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health-care services.

[DEL. CODE ANN. tit. 18, § 3370.](#)

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

None identified.

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

Yes.

The State Division of Medicaid & Medical Assistance, which administers Medicaid in Delaware, will reimburse for telemedicine-delivered services provided by an originating site. An originating site provider is the facility where the telemedicine space and equipment is located and where the patient receives the medical service provided by the consulting or distant provider. Originating site providers may be hospitals, federally qualified health centers, skilled nursing facilities, mental health and substance abuse centers, public health clinics, PACE centers, etc. Consulting or distant site providers deliver medical services which can include consultations, office or outpatient visits, psychotherapy, medication management, psychiatric interview or examination, substance abuse screening and brief interventions, neurobehavioral examination, end stage renal disease services, medical nutrition therapy and more. The originating site will be paid a facility fee for the telemedicine space and equipment, and the consulting services will be reimbursed as if delivered face-to-face.

[Delaware Department of Health & Social Services, Press Release, \*Delaware Medicaid Program to Reimburse for Telemedicine-Delivered Services Beginning July 1 \(June 2012\).\*](#)

**DELAWARE**

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

The following coverage criteria apply:

Providers rendering telemedicine must be able to use interactive telecommunications equipment that includes, at a minimum, audio and video equipment permitting two-way, real time, interactive communication between the recipient and the practitioner to provide and support care when distance separates participants who are in different geographical locations. . . .

Telephone conversations, chart reviews, electronic mail messages, facsimile transmissions or internet services for online medical evaluations are not considered telemedicine. . . .

In order to provide telemedicine under DMAP, providers at both the originating and distant site must be enrolled with DMAP or have contractual agreements with the managed care organizations (MCOs) and must meet all requirements for their discipline as specified in the Medicaid State Plan.

In order for services delivered through telemedicine technology from DMAP or MCOs to be covered, healthcare practitioners must:

- Act within their scope of practice;
- Be licensed (in Delaware, or the State in which the provider is located if exempted under Delaware State law to provide telemedicine services without a Delaware license) for the service for which they bill DMAP;
- Be enrolled with DMAP/MCOs;
- Be located within the continental United States. . . .

In addition, “[a]ll telemedicine services must be furnished within the limits of provider program policies and within the scope and practice of the provider’s professional standards as described and outlined in DMAP Provider Manuals.”

[Del. Division of Medicaid and Medical Assistance, Telemedicine \(State Plan Revision\).](#)

**CONTROLLED SUBSTANCES**

**How are “controlled substances” defined by the state?**

The Delaware Uniform Controlled Substances Act defines a “controlled substance” as “a drug, substance or immediate precursor in Schedules I through V of subchapter II of this chapter. For purposes of the crimes set forth in subchapters IV and V of this chapter, and of forfeiture set forth in § 4784 of this title, ‘controlled substance’ includes ‘designer drug,’ as defined in paragraph (9) of this section.” Regulations further note that “controlled substance” means “any substance or drug defined, enumerated or included in this chapter and Title 21, Code of Federal Regulations.”

[DEL. CODE ANN. tit. 16, § 4701; 24 DEL. ADMIN. CODE § 2.0.](#)

## DELAWARE



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

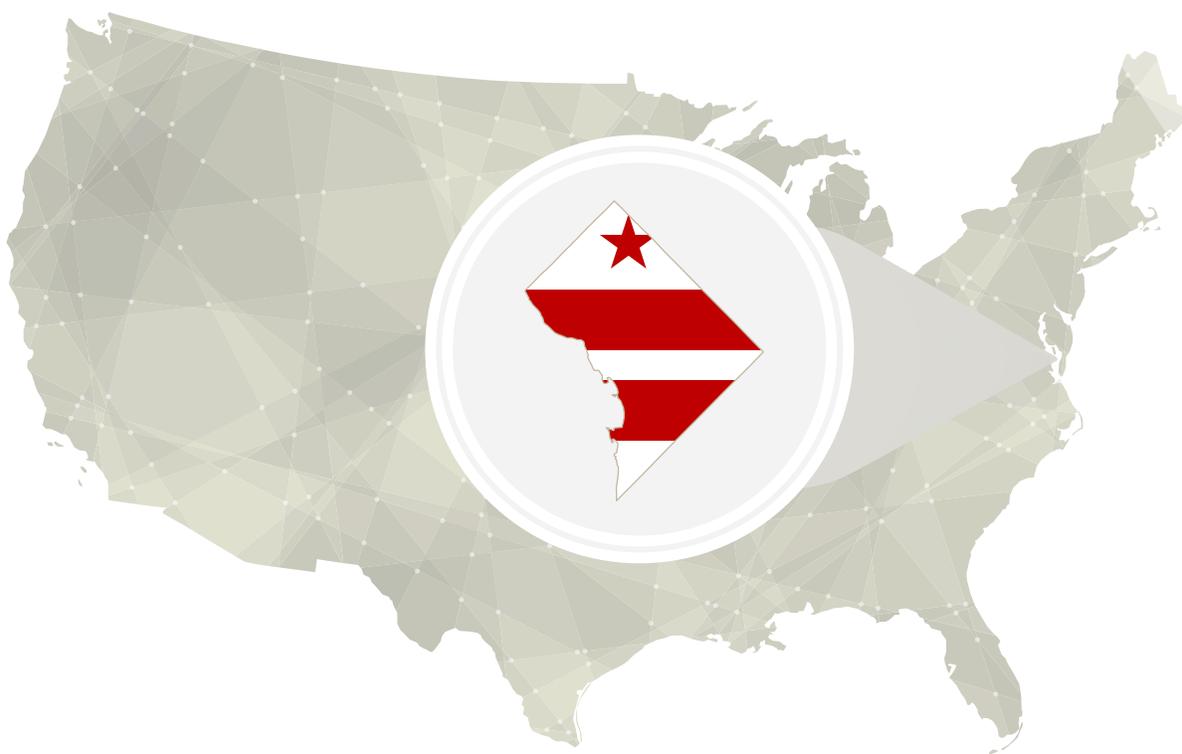
Practitioners who wish to prescribe controlled substances must obtain a Delaware controlled substance registration (CSR) and meet all related requirements.

[DEL. CODE ANN. tit. 16, § 4732: DE CSR Registration-Practitioners.](#)

The following specific requirements apply:

- “All prescriptions for controlled substances shall be dated on the day when issued and shall bear the full name and address of the patient, and the name, address, telephone number and registration number of the practitioner. A practitioner may sign a prescription in the same manner as he would sign a check or legal document (e.g., J.H. Smith or John H. Smith). When an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter 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 where 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 these regulations. Each written prescription shall have the name of the practitioner stamped, typed, or hand-printed on it, as well as the signature of the practitioner.” [24 DEL. ADMIN. CODE § 4.0.](#)
- Prescribing practitioners are required to maintain records in accordance with [24 DEL. ADMIN. CODE § 6.0.](#)
- “A prescriber, or other person authorized by the prescriber, shall obtain, before writing a prescription for a controlled substance listed in Schedule II, III, IV or V for a patient, a patient utilization report regarding the patient for the preceding 12 months from the computerized program established by the Office of Controlled Substances when the prescriber has a reasonable belief that the patient may be seeking the controlled substance, in whole or in part, for any reason other than the treatment of an existing medical condition. The prescriber shall review the patient utilization report to assess whether the prescription for the controlled substance is necessary.” [Del. Code Ann. tit. 16, § 4798.](#)

# DISTRICT OF COLUMBIA





## DISTRICT OF COLUMBIA

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

The District of Columbia proposes to define “telemedicine” as “[t]he practice of medicine by a licensed practitioner to provide patient care, treatment or services, between a licensee in one location and a patient in another location with or without an intervening healthcare provider, through the use of health information and technology communications, subject to the existing standards of care and conduct. Generally, telemedicine does not include an audio-only telephone conversations, electronic mail, instant messaging conversations, or facsimile communications. Telemedicine typically involves the application of secure videoconferencing or store and forward technology to provide or support the delivery of healthcare by replicating the interaction of a traditional encounter in person between a licensee and patient.”

[Proposed Telemedicine Rule \(Feb. 2016\).](#)

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

None identified.

## PSYCHIATRISTS

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

[District of Columbia Board of Medicine](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

None identified.

However, a license issued by the District of Columbia Board of Medicine is generally required to practice psychiatry in the District of Columbia unless the provider is from an adjoining state.

Licensing provisions do not apply “to a health professional who is authorized to practice a health occupation in any state adjoining the District who treats patients in the District if:

- The health professional does not have an office or other regularly appointed place in the District to meet patients;
- The health professional registers with the appropriate board and pays the registration fee prescribed by the board prior to practicing in the District; and
- The state in which the individual is licensed allows individuals licensed by the District in that particular health profession to practice in that state under the conditions set forth in this section.”

[D.C. CODE § 3-1205.02.](#)



## DISTRICT OF COLUMBIA

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

“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.”

[Proposed Telemedicine Rule \(Feb. 2016\).](#)

### Does a psychiatrist have prescribing authority?

#### If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

“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.”

[Proposed Telemedicine Rule \(Feb. 2016\).](#)

### 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?

“Generally, telemedicine does not include an audio-only telephone conversations, electronic mail, instant messaging conversations, or facsimile communications. Telemedicine typically involves the application of secure videoconferencing or store and forward technology to provide or support the delivery of healthcare by replicating the interaction of a traditional encounter in person between a licensee and patient.”

[Proposed Telemedicine Rule \(Feb. 2016\).](#)

## PSYCHOLOGISTS

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

[District of Columbia Board of Psychology](#)

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

None identified.



## DISTRICT OF COLUMBIA

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

See Psychiatrists section above.

Psychology is considered a health occupation; thus, the same licensure requirements allowing psychiatrists from adjoining states to practice in the District of Columbia apply to psychologists.

[D.C. CODE § 3-1205.01.](#)

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

None identified.

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

No.

### 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.

## SOCIAL WORKERS

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

[District of Columbia Board of Social Work](#)

### 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)?

See Psychiatrists section above.

Psychology is considered a health occupation; thus, the same licensure requirements allowing psychiatrists from adjoining states to practice in the District of Columbia apply to psychologists.

[D.C. CODE § 3-1205.01.](#)



## DISTRICT OF COLUMBIA

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

None identified.

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

No.

**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.

### COUNSELORS

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

[District of Columbia Board of Professional Counseling](#)

**What are the restrictions on the scope of practice for counselors 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)?**

*See Psychiatrists section above.*

Professional counseling is considered a health occupation; thus, the same licensure requirements allowing psychiatrists from adjoining states to practice in the District of Columbia apply to professional counselors.

[D.C. CODE § 3-1205.01.](#)

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

None identified.

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

No.

**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.



## DISTRICT OF COLUMBIA

### MARRIAGE/FAMILY THERAPISTS

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

[District of Columbia Board of Marriage and Family Therapy](#)

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

None identified.

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

- A therapist providing teletherapy to a resident of another jurisdiction where the licensee is not licensed should contact the regulators in that jurisdiction in order to comply with the legal requirements of that jurisdiction.
- A therapist should ensure that he/she complies with federal and state laws governing confidentiality and privacy (e.g., the Health Insurance Portability and Accountability Act (HIPAA)), and should use only a telecommunication system, program, or means that is known to be sufficiently secure to protect the client's privacy and confidentiality. (Skype is not secure.)
- A therapist providing teletherapy 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 \(July 2013\).](#)

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

See Psychiatrists section above.

Marriage and family therapy is considered a health occupation, thus the same licensure requirements allowing psychiatrists from adjoining states to practice in the District of Columbia apply to marriage and family therapists.

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

None identified.



## DISTRICT OF COLUMBIA

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[District of Columbia Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

See Psychiatrists section above.

Advanced practice registered nursing is considered a health occupation; thus, the same licensure requirements allowing psychiatrists from adjoining states to practice in the District of Columbia apply to APRNs.

[D.C. CODE § 3-1205.01.](#)

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

None identified.

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

Yes.

The practice of advanced practice registered nursing includes prescribing.

[D.C. CODE § 3-1201.02.](#)

No telehealth-specific conditions/limits identified.



## DISTRICT OF COLUMBIA

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.

### PRIVACY/CONFIDENTIALITY

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

None identified.

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

None identified.

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

None identified.

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?

None identified.



## DISTRICT OF COLUMBIA

### COVERAGE & REIMBURSEMENT

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

Yes.

“A health insurer offering a health benefits plan in the District may not deny coverage for a healthcare service on the basis that the service is provided through telehealth if the same service would be covered when delivered in person.”

[D.C. CODE § 31-3862.](#)

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

None identified.

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

Yes.

“Medicaid shall cover and reimburse for healthcare services appropriately delivered through telehealth if the same services would be covered when delivered in person.”

[D.C. CODE § 31-3863.](#)

### CONTROLLED SUBSTANCES

**How are “controlled substances” defined by the state?**

District of Columbia law defines “controlled substance” as “a drug, substance, or immediate precursor, as set forth in Schedules I through V of subchapter II of this chapter.”

[D.C. CODE § 48-901.02.](#)

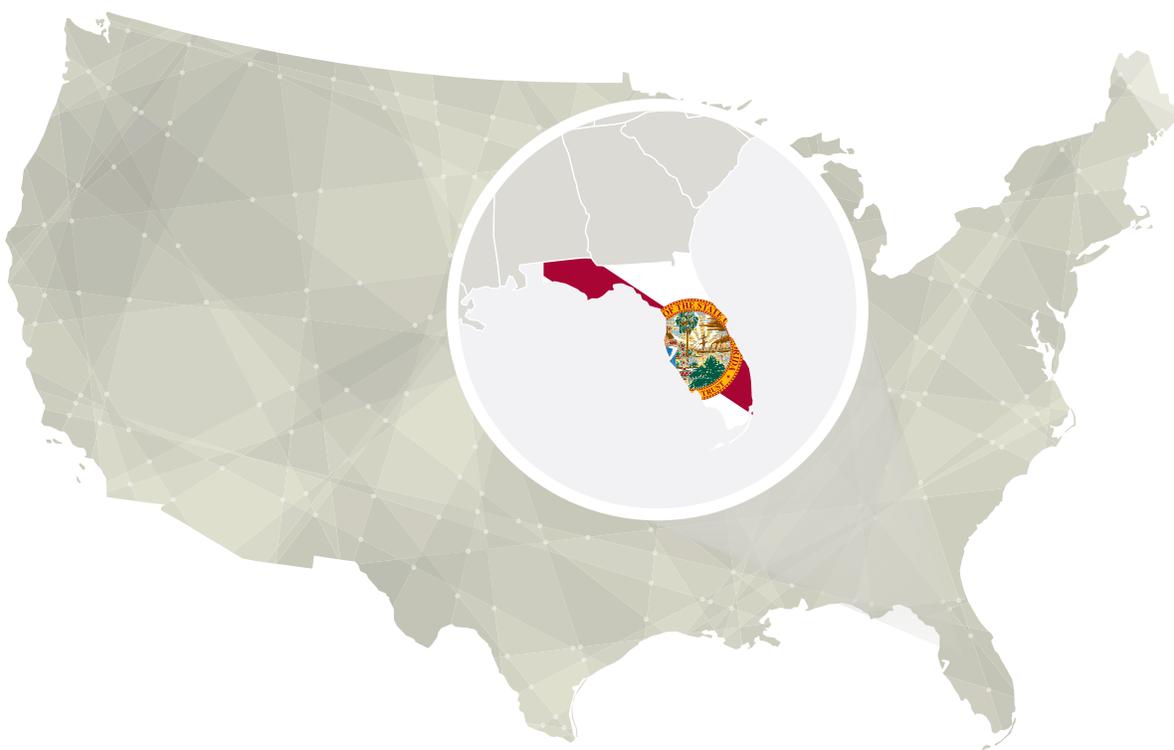
**What are the requirements/laws governing the prescribing of “controlled” substances?”**

“A prescription for a controlled substance listed in Schedule II shall not be filled if submitted more than thirty (30) days after the date on which the prescription is written.”

“A prescription for a Schedule II controlled substance may be transmitted by the practitioner or the practitioner’s agent to a pharmacy via telephone facsimile equipment, provided that the original written, signed prescription is presented to the pharmacist for review prior to issuance of the controlled substance to the patient or the patient’s representative.”

[D.C. CODE § 22-B1306.](#)

# FLORIDA





## 50-State Survey of Telemental/Telebehavioral Health

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

“Telemedicine” means “the practice of medicine by a licensed Florida physician or physician assistant where patient care, treatment, or services are provided through the use of medical information exchanged from one site to another via electronic communications. Telemedicine shall not include the provision of health care services only through an audio only telephone, email messages, text messages, facsimile transmission, U.S. Mail or other parcel service, or any combination thereof.”

[FLA. ADMIN. CODE r. 64B8-9.0141\(1\).](#)

“For purposes of Medicaid reimbursement, telemedicine is the use of medical information exchanged from one site to another via electronic communications to improve a patient’s health. Electronic communication means the use of interactive telecommunications equipment that includes, at a minimum, audio and video equipment permitting two-way, real time interactive communication between the patient, and the physician at the distant site.”

[Fla. Medicaid Practitioner Services Coverage and Limitations Handbook \(Apr. 2014\).](#)

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

None identified.

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

[Florida Board of Medicine](#)

**What are the restrictions on the scope of practice for psychiatrists 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)?**

Yes, a license issued by the Florida Board of Medicine is required.

As noted in the “telemedicine” definition above, “telemedicine” is the “practice of medicine by a *licensed Florida physician* . . .” (emphasis added).

[FLA. ADMIN. CODE r. 64B8-9.0141\(1\).](#)

Under the Florida Medical Practice Act, a “physician” is defined “as a person who is licensed to practice medicine in this state.”

[FLA. STAT. § 458.305\(4\).](#)



## FLORIDA

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

Florida's medical practice regulations permit consultations between Florida licensed physicians and out-of-state physicians, in accordance with the following:

"The term 'consultation' . . . encompasses the actions of a physician lawfully licensed in another state, territory or foreign country. Such physician is permitted to examine the patient, take a history and physical, review laboratory tests and x-rays, and make recommendations to a physician duly licensed in this state with regard to diagnosis and treatment of the patient. However the term 'consultation' does not include such physician's performance of any medical procedure on or the rendering of treatment to the patient."

[FLA. ADMIN. CODE r. 64B8-2.001\(5\).](#)

Additionally, "[n]othing contained in [the telemedicine regulations] shall prohibit consultations between physicians or the transmission and review of digital images, pathology specimens, test results, or other medical data by physicians or other qualified providers related to the care of Florida patients."

[FLA. ADMIN. CODE r. 64B8-9.0141\(9\)\(a\).](#)

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

Under the telemedicine regulations, "[p]hysicians and physician assistants shall not provide treatment recommendations, including issuing a prescription, via electronic or other means, unless the following elements have been met:

- A documented patient evaluation, including history and physical examination to establish the diagnosis for which any legend drug is prescribed.
- Discussion between the physician or the physician assistant and the patient regarding treatment options and the risks and benefits of treatment.
- Maintenance of contemporaneous medical records meeting the requirements of [Rule 64B8-9.003, F.A.C.](#)"

[FLA. ADMIN. CODE r. 64B8-9.0141\(6\).](#)

The telemedicine regulations also discuss a physician's responsibility for the quality and safety of technology equipment:

"Florida licensed physicians and physician assistants providing health care services by telemedicine are responsible for the quality of the equipment and technology employed and are responsible for their safe use. Telemedicine equipment and technology must be able to provide, at a minimum, the same information to the physician and physician assistant which will enable them to meet or exceed the prevailing standard of care for the practice of medicine."

[FLA. ADMIN. CODE r. 64B8-9.0141\(3\).](#)



## 50-State Survey of Telemental/Telebehavioral Health

**FLORIDA**

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

Yes.

However, the Florida telemedicine regulations do not allow prescriptions of controlled substances through the use of 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.”

Such regulations further state, “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.”

Also, note that the requirements stated above must be met when issuing a prescription via electronic means.

[FLA. ADMIN. CODE r. 64B8-9.0141\(4\)-\(5\).](#)

**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 provision of health care services solely through telephone with audio only, e-mail, text messages, faxes, U.S. mail or other parcel service, or any combination thereof does not constitute telemedicine under the telemedicine regulations.

[FLA. ADMIN. CODE r. 64B8-9.0141\(1\).](#)

**PSYCHOLOGISTS**

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

[Florida Board of Psychology](#)

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

None identified.

However, the Florida psychology practice statute states that psychological services may be rendered “without regard to place of service.”

[FLA. STAT. § 490.003 \(4\)\(a\).](#)



## FLORIDA

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

Yes, a license issued by the Florida Board of Psychology is required.

Psychologists who are not licensed in Florida may practice in Florida under the following conditions:

- “Such services are performed for no more than 5 days in any month and no more than 15 days in any calendar year; and
- Such nonresident is licensed or certified by a state or territory of the United States, or by a foreign country or province, the standards of which were, at the date of his or her licensure or certification, equivalent to or higher than the requirements of this chapter in the opinion of the department or, in the case of psychologists, in the opinion of the board.”

[FLA. STAT. § 490.014 \(e\).](#)

The Florida Board of Psychology issued a 2006 opinion regarding the practice of telepsychology. A psychologist, licensed in Ohio, petitioned the Board to determine whether treating patients in Ohio, from Florida, via telecommunication constituted the practice of psychology in Florida. The Board determined that this form of telepsychology would require Florida licensure.

[Fla. Board of Psychology Petition \(2006\).](#)

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

None identified.

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

No.

### 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.

## SOCIAL WORKERS

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

[Florida Board of Clinical Social Work, Marriage & Family Therapy, and Mental Health Counseling](#)



## 50-State Survey of Telemental/Telebehavioral Health

**FLORIDA****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)?**

Yes, a license issued by the Board of Clinical Social Work, Marriage & Family Therapy, and Mental Health Counseling is required.

Social workers, therapists, or counselors who are not licensed in Florida may nevertheless practice in Florida if the licensed professional “[i]s not a resident of this state but offers services in this state, provided:

- Such services are performed for no more than 15 days in any calendar year; and
- Such nonresident is licensed or certified to practice the services provided by a state or territory of the United States or by a foreign country or province.”

[FLA. STAT. § 491.014.](#)

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

None identified.

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

No.

**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.

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

[Florida Board of Clinical Social Work, Marriage & Family Therapy, and Mental Health Counseling](#)

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

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**FLORIDA**

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

Yes, a license issued by the Board of Clinical Social Work, Marriage & Family Therapy, and Mental Health Counseling is required. The same criteria applicable to social workers also apply to counselors. See Social Workers section above.

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

None identified.

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

No.

**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.

**MARRIAGE/FAMILY  
THERAPISTS**

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

[Florida Board of Clinical Social Work, Marriage & Family Therapy, and Mental Health Counseling](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

Yes, a license issued by the Board of Clinical Social Work, Marriage & Family Therapy, and Mental Health Counseling is required. The same criteria applicable to social workers also apply to marriage and family therapists. See Social Workers section above.



## 50-State Survey of Telemental/Telebehavioral Health

**FLORIDA**

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

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

**ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**

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

[Florida Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

Yes, a license issued by the Board of Nursing is required.

The Florida Nurse Practice Act permits an out-of-state nurse to practice within the state, for a limited time. Specifically, the Nurse Practice Act does not prohibit “[a]ny nurse currently licensed in another state or territory of the United States from performing nursing services in this state for a period of 60 days after furnishing to the employer satisfactory evidence of current licensure in another state or territory and having submitted proper application and fees to the board for licensure prior to employment.”

[FLA. STAT. § 464.022\(8\).](#)

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

None identified.



## FLORIDA

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

Yes.

However, Advanced Registered Nurse Practitioners (ARNPs, Florida's equivalent of APRNs) have limited prescribing authority. ARNPs cannot prescribe controlled substances.

"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."

[FLA. STAT. § 456.0392\(2\).](#)

According to guidance on the Board of Nursing website, "Florida law does not allow ARNPs to prescribe controlled substances. All prescriptions for controlled substances must be written and signed by a licensed physician."

[Fla. Board of Nursing Help Center.](#)

### 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.

## PRIVACY/CONFIDENTIALITY

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

The Florida telemedicine regulation provides that the standards for confidentiality and recordkeeping stay the same when telemedicine is used: "The practice of medicine by telemedicine does not alter any obligation of the physician or the physician assistant regarding patient confidentiality or recordkeeping."

[FLA. ADMIN. CODE r. 64B8-9.0141\(7\).](#)

Florida Board of Psychology regulations set forth the following standards governing the confidentiality of psychological records:

- "Psychologists may disclose [information entrusted to them by service users] only with the written consent of the service user. The only exceptions to this general rule occur in those situations when nondisclosure on the part of the psychologist would violate the law. If there are limits to the maintenance of confidentiality, however, the licensed psychologist shall inform the service user of those limitations. For instance, licensed psychologists in hospital, subacute or nursing home settings should inform service users when the service user's clinical records will contain psychological information which may be available to others without the service user's written consent. Similar limitations on confidentiality may present themselves in educational, industrial, military or third-party payment situa-



## FLORIDA

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

tions, and in each of the circumstances mentioned herein or in each similar circumstance, the licensed psychologist must obtain a written statement from the service user which acknowledges the psychologist's advice in those regards. This rule is particularly applicable to supervisory situations wherein the supervised individual will be sharing confidential information with the supervising psychologist. In that situation, it is incumbent upon the licensed psychologist to secure the written acknowledgement of the service user regarding that breach of confidentiality."

- "In cases where an evaluation is performed upon a person by a psychologist for use by a third party, the psychologist must explain to the person being evaluated the limits of confidentiality in that specific situation, document that such information was explained and understood by the person being evaluated, and obtain written informed consent to all aspects of the testing and evaluative procedures."
- "This rule recognizes that minors and legally incapacitated individuals cannot give informed consent under the law. Psychologists, nonetheless, owe a duty of confidentiality to minor and legally incapacitated service users consistent with the duty imposed by [the first bullet point above]. This does not mean that the psychologist may not impart the psychologist's own evaluation, assessment, analysis, diagnosis, or recommendations regarding the minor or legally incapacitated individual to the service user's guardian or to any court of law."
- "The licensed psychologist shall maintain the confidentiality of all psychological records in the licensed psychologist's possession or under the licensed psychologist's control except as otherwise provided by law or pursuant to written and signed authorization of a service user specifically requesting or authorizing release or disclosure of the service user's psychological records."
- "The licensed psychologist shall also ensure that no person working for the psychologist, whether as an employee, an independent contractor, or a volunteer violates the confidentiality of the service user."

[FLA. ADMIN. CODE r. 64B19-19.006.](#)

"A licensed clinical social worker, marriage and family therapist, or mental health counselor, including any registered intern or provisional licensee, shall maintain responsibility for all records relating to his clients as provided in Section 456.057, F.S. All such records shall remain confidential except as provided by law or as allowed pursuant to a written and signed authorization by the client specifically requesting or authorizing release or disclosure of records in his office or possession."

"Regardless of who pays for the services of the psychotherapist, a client is that individual who, by virtue of private consultation with the psychotherapist, has reason to expect that the individual's communication with the psychotherapist during that private consultation will remain confidential."

[FLA. ADMIN. CODE r. 64B4-9.001-9.002.](#)

### MINORS

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

None identified.



## FLORIDA

### FOLLOW-UP CARE

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

None identified.

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?

None identified.

### 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.

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

None identified.

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

Yes.

Per the *Florida Medicaid Practitioner Services Coverage and Limitations Handbook*, “[o]nly physicians can provide and receive reimbursement for telemedicine services.” Further, Medicaid does not reimburse for the costs or fees of any of the equipment necessary to provide telemedicine services.

The following coverage criteria apply:

- “The distant or hub is the site where the consulting physician delivering the service is located at the time the telecommunications service is provided. The spoke is the location of the Medicaid recipient at the time the service occurs via a telecommunications system. This site does not receive reimbursement unless the provider at the spoke site performs a separately identifiable service for the recipient on the same day as the telemedicine service.”



## FLORIDA

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

- “The telecommunication equipment must meet the technical safeguards required by 45 CFR 164.312, where applicable. Telemedicine services must comply with HIPAA and other state and federal laws pertaining to patient privacy.”
- “A physician, ARNP or PA may initiate a consultation from the spoke site. The referring practitioner must be present during the consultation as well as the recipient.”
- “Telemedicine services are limited to the hospital outpatient setting, inpatient setting, and physician office.”

The following are not covered “telemedicine services:

- Telephone conversations;
- Video cell phone conversations;
- E-mail messages;
- Facsimile transmission;
- Telecommunication with a recipient at a location other than the spoke; and
- ‘Store and forward’ consultations that are transmitted after the recipient or physician is no longer available.”

“When telemedicine services are provided, the clinical record must include the following:

- A brief explanation of why the services were not provided face-to-face;
- Documentation of telemedicine service provided including the results of the assessment; and
- A signed statement from the recipient (parent or guardian if a child), indicating their choice to receive services through telemedicine. This statement may be for a set period of treatment or a one-time visit, as applicable to the services provided.”

*[Fla. Medicaid Practitioner Services Coverage and Limitations Handbook \(Apr. 2014\).](#)*

The *Florida Medicaid Community Behavioral Health Services Coverage and Limitations Handbook* further 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.” This 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. Medicaid Community Behavioral Health Services Coverage and Limitations Handbook \(Mar. 2014\).](#)*



## FLORIDA

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Florida defines the term “controlled substance” to mean “any substance named or described in Schedules I-V of s. [893.03](#). Laws controlling the manufacture, distribution, preparation, dispensing, or administration of such substances are drug abuse laws.”

[FLA. STAT. § 893.02\(4\)](#).

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

The Florida medical practice statute has requirements for all prescriptions and specific requirements for controlled substances prescriptions, including the following:

“A written prescription for a medicinal drug issued by a health care practitioner licensed by law to prescribe such drug must be legibly printed or typed so as to be capable of being understood by the pharmacist filling the prescription; must contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed, and the directions for use of the drug; must be dated; and must be signed by the prescribing practitioner on the day when issued. However, a prescription that is electronically generated and transmitted must contain the name of the prescribing practitioner, the name and strength of the drug prescribed, the quantity of the drug prescribed in numerical format, and the directions for use of the drug and must be dated and signed by the prescribing practitioner only on the day issued, which signature may be in an electronic format.”

The following provision applies to prescriptions for controlled substances:

“A written prescription for a controlled substance listed in chapter 893 must have the quantity of the drug prescribed in both textual and numerical formats, must be dated in numerical, month/day/year format, or with the abbreviated month written out, or the month written out in whole, and must be either written on a standardized counterfeit-proof prescription pad produced by a vendor approved by the department or electronically prescribed as that term is used in s. 408.0611. As a condition of being an approved vendor, a prescription pad vendor must submit a monthly report to the department that, at a minimum, documents the number of prescription pads sold and identifies the purchasers. The department may, by rule, require the reporting of additional information.”

[FLA. STAT. § 456.42](#).

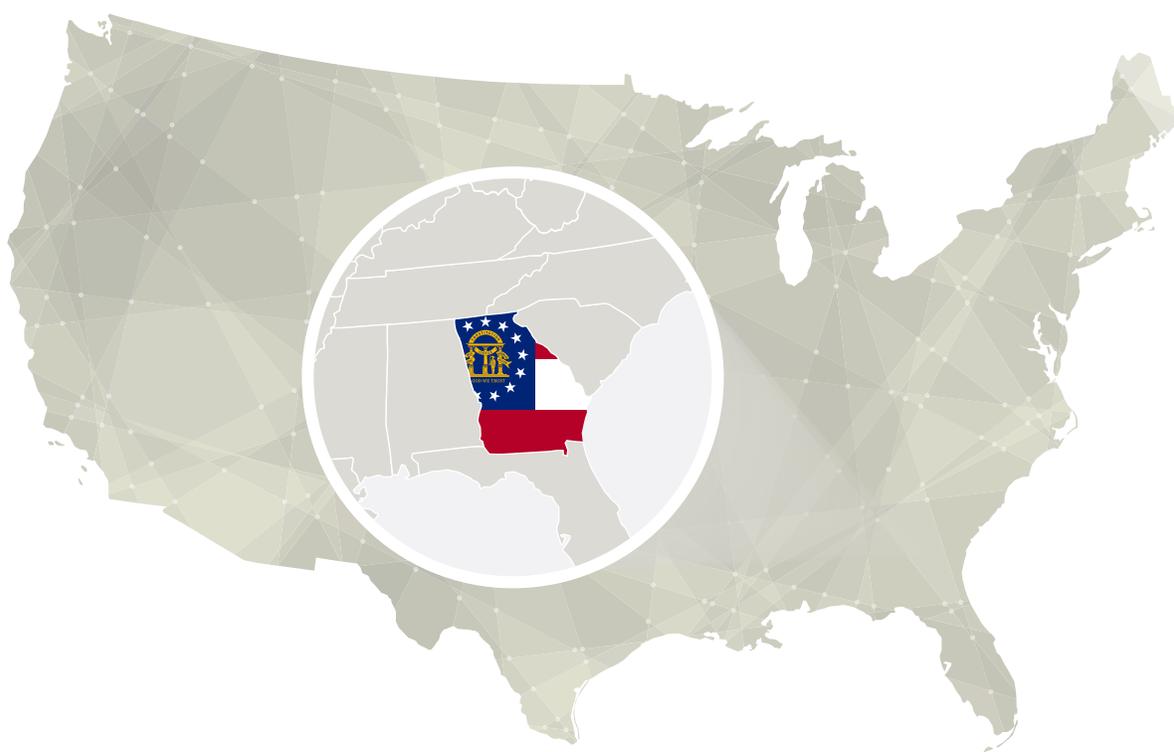
Further, specific requirements apply to physicians who prescribe any controlled substance, listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain.

[See FLA. STAT. § 456.44](#).

The Florida Comprehensive Drug Abuse Prevention and Control Act provides that “[a] prescription order for a controlled substance shall not be issued on the same prescription blank with another prescription order for a controlled substance which is named or described in a different schedule, nor shall any prescription order for a controlled substance be issued on the same prescription blank as a prescription order for a medicinal drug, as defined in s. 465.003(8), which does not fall within the definition of a controlled substance as defined in this act.”

[FLA. STAT. § 893.02](#).

# GEORGIA





## 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.](#)

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

The Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and Family Therapists defines “TeleMental Health” as the mode of delivering services via technology-assisted media, including, but not limited to, a telephone, a video, the Internet, a smartphone, a tablet, a PC desktop system, or other electronic means using appropriate encryption technology for electronic health information. “TeleMental Health facilitates client self-management and support for clients and includes synchronous interactions and asynchronous store and forward transfers.”

[GA. COMP. R. & REGS. § 135-11-.01.](#)

## PSYCHIATRISTS

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

[Georgia Composite Medical Board](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes, a license to practice medicine issued by the Georgia Composite Medical Board is required, with limited exceptions.

The Georgia Medical Board’s telemedicine regulations state the following: “Except as otherwise provided, in order for a physician to practice within the minimum standards of practice while providing treatment and/or consultation recommendations by electronic or other such means, all the following conditions must be met:

(1) All treatment and/or consultations must be done by Georgia licensed practitioners. . . .”

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



## GEORGIA

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

According to the Georgia Medical Practice Act, “[a] person who is physically located in another state or foreign country and who, through the use of any means, including electronic, radiographic, or other means of telecommunication, through which medical information or data are transmitted, performs an act that is part of a patient care service located in [Georgia], including but not limited to the initiation of imaging procedures or the preparation of pathological material for examination, and that would affect the diagnosis or treatment of the patient is engaged in the practice of medicine in [Georgia]. Any person who performs such acts through such means shall be required to have a license to practice medicine in [Georgia] and shall be subject to regulation by the board. Any such out-of-state or foreign practitioner shall not have ultimate authority over the care or primary diagnosis of a patient who is located in [Georgia].”

However, the Georgia Medical Practice Act states that the above section will not apply to out-of-state physicians who (1) provide consultation services at the request of a physician licensed in Georgia and (2) provide such services on an occasional, rather than on a regular or routine, basis. Other exceptions also apply for consultations provided during an emergency, without expectation of compensation, or to a medical school.

[GA. CODE ANN. § 43-34-31.](#)

The Georgia Medical Practice Act also provides a general consultation exception to its licensure requirement: “Licensed physicians of other states and foreign countries may be permitted to enter [Georgia] for consultation with any licensed physician of [Georgia]. A physician from another state or from a foreign country shall not be permitted to establish offices in this state for the practice of his or her profession, either temporary or permanent, or practice under another physician’s license, unless he or she obtains a license from the board.”

[GA. CODE ANN. § 43-34-30.](#)

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

Under the Georgia Medical Board’s telemedicine regulations, in order for a physician to practice within the minimum standards of practice while providing treatment and/or consultation recommendations by electronic or other such means, the following conditions must be met (in addition to the licensure requirement noted above):

- (2) A history of the patient shall be available to the Georgia licensed physician, physician assistant or advanced practice registered nurse who is providing treatment or consultation via electronic or other such means;
- (3) A Georgia licensed physician, physician assistant or advanced practice registered nurse either:
  - a. Has personally seen and examined the patient and provides ongoing or intermittent care by electronic or other such means; or
  - b. Is 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
  - c. Is 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 center 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



## GEORGIA

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

d. 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.

(4) The Georgia licensed physician, physician assistant or advanced practice registered nurse providing treatment or consultations by electronic or other means must maintain patient records on the patient and must document the evaluation and treatment along with the identity of the practitioners providing the service by electronic or other means, and if there is a referring practitioner, a copy of this record must also be provided to the referring physician, physician assistant or advanced practice registered nurse;

(5) To delegate to a nurse practitioner or to supervise a physician assistant doing telemedicine, the physician must document to the board that that the provision of care by telemedicine is in his or her scope of practice and that the NP or PA has demonstrated competence in the provision of care by telemedicine.

(6) Patients treated by electronic or other such means or patient's agent must be given the name, credentials and emergency contact information for the Georgia licensed physician, physician assistant and/or advanced practice registered nurse providing the treatment or consultation. Emergency contact information does not need to be provided to those treated within the prison system while incarcerated but should be provided to the referring provider. For the purposes of this rule, "credentials" is defined as the area of practice and training for physicians, and for physician assistants and advanced practice registered nurses, "credentials" shall mean the area of licensure and must include the name of the delegating physician or supervising physician;

(7) The patient being treated via electronic or other means or the patient's agent must be provided with clear, appropriate, accurate instructions on follow-up in the event of needed emergent care related to the treatment. In the case of prison patients, prison staff will be provided this information if the consult is provided to an inmate; and

(8) The physician, physician assistant or nurse practitioner who provides care or treatment for a patient by electronic or other such means must make diligent efforts to have the patient seen and examined in person by a Georgia licensed physician, physician assistant or nurse practitioner at least annually.

The above provisions "should not be interpreted to interfere with care and treatment by telephonic communication in an established physician-patient relationship, call coverage for established physician-patients relationships, or telephone and internet consultations between physicians, nurse practitioners, physician assistants, other healthcare providers or child protection agencies."

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

Under Medical Board regulations, "unprofessional conduct" includes the following: "Providing treatment via electronic or other means unless a history and physical examination of the patient has been performed by a Georgia licensee. This shall not prohibit a licensee who is on call or covering for another licensee from treating and/or consulting a patient of such other licensee. Also, this paragraph shall not prohibit a patient's attending physician from obtaining consultations or recommendations from other licensed health care providers."

#### [GA. COMP. R. & REGS. § 360-3-.02.](#)



## GEORGIA

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

Yes.

As far as prescribing limitations (in addition to the general requirements that must be met as explained above), the Georgia Medical Board's rules consider the following to be unprofessional conduct:

Prescribing controlled substances . . . and/or dangerous drugs [(see definition below)] for a patient based solely on a consultation via electronic means with the patient, patient's guardian or patient's agent. This shall not prohibit a licensee who is on-call or covering for another licensee from prescribing up to a 72-hour supply of medications for a patient of such other licensee nor shall it prohibit a licensee from prescribing medications when documented emergency circumstances exist.

A "dangerous drug" means any drug other than a drug contained in any schedule of Article 2 of T.16, Ch.13, which, under the Federal Food, Drug, and Cosmetic Act, may be dispensed only upon prescription.

[GA. CODE ANN. § 16-13-71](#); [GA. COMP. R. & REGS. § 360-3-.02](#).

Also, the Board's rule regarding practice through electronic means provide that "[t]his rule does not authorize the prescription of controlled substances for the treatment of pain or chronic pain by electronic or other such means. All treatment of pain or chronic pain must be in compliance with Rule 360-3-.06."

[GA. COMP. R. & REGS. § 360-3-.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?

None identified. However, see the "telemedicine" definition above, which relates to insurance coverage of telemedicine.

## PSYCHOLOGISTS

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

[Georgia Board of Psychology](#)

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

None identified.



## GEORGIA

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

Yes, a license issued by the Georgia Board of Psychology is required, with limited exceptions.

Georgia Board of Psychology regulations state the following: “The provision of psychological services by electronic transmission (e.g. internet, telephone, computer . . .) must meet the same legal and ethical standards as psychological services provided in person. This rule applies to both psychologists who are licensed in Georgia and to other psychologists residing elsewhere who are providing psychological services to clients/patients in Georgia who must meet the requirements of section 510-9-.03. The Georgia Board will report out of state psychologists to their respective licensing boards for practicing psychology via these means in the state of Georgia without a Georgia license.”

[GA. COMP. R. & REGS. § 510-5-.07.](#)

However, there are limited exceptions to this licensure requirement. For example, Georgia’s Psychology Practice Act allows “[a]n individual licensed to practice psychology in another jurisdiction [to] practice psychology in Georgia without applying for a license, so long as the requirements for a license in the other jurisdiction are equal to or exceed the requirements for licensure in Georgia, and the psychologist limits that person’s practice in Georgia to no more than 30 days per year, as defined in the rules and regulations of the board.”

[GA. CODE ANN. § 43-39-7.](#)

The associated regulation adds further detail to the language above, noting:

An individual licensed to practice psychology at the doctoral level in another jurisdiction may practice psychology in Georgia without applying for a Georgia license, so long as the following requirements are met:

(a) The individual holds an Interjurisdictional Practice Certificate (IPC) issued by the

Association of State and Provincial Psychology Boards (ASPPB) and

1. at least 5 days before the intended practice submits an IPC attestation form and
2. ASPPB verifies the IPC certificate is current and valid or

(b) at least 5 days before the intended practice, the individual notifies the Board of their intent to practice in Georgia with dates, address, and nature of intended practice and 1. Submits a verification form from their jurisdiction of licensure indicating no history of disciplinary action.

(c) The psychologist must limit his/her practice in Georgia to a maximum of 30 days per calendar year (a day being defined as any part of a day where psychological work is performed). This permission for limited practice only applies to individuals who are currently not seeking licensure in Georgia.

(d) The state of Georgia provides that a person must be licensed as a psychologist in the state to render psychological services however, the following are exempted: The activities and services of a nonresident of the state of Georgia who renders consulting or other psychological services if such activities and services are rendered in cooperation with the American Red Cross, the International Critical Incident Stress Foundation, or as a member of the Disaster Response Network of the American Psychological Association or the Georgia Psychological Association or other nationally recognized disaster response networks. The Board shall be informed prior, if possible, to the initiation of said services.

[GA. COMP. R. & REGS. § 510-9-.03.](#)



## GEORGIA

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

Under the Code of Ethics for psychologists, “[w]hen psychologists conduct research or provide assessment, therapy, counseling, or consulting services in person or via electronic transmission or other forms of communication, they [must] obtain the informed consent of the individual or individuals using language that is reasonably understandable to that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Ethics Code.”

[GA. COMP. R. & REGS. § 510-4-.02.](#)

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

No.

### 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.

## SOCIAL WORKERS

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

[Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and Family Therapists](#)

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

None identified.



## GEORGIA

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

Yes, a license issued by the Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and Family Therapists is required, as well as additional training.

Under Board TeleMental Health regulations, the Board envisions that TeleMental Health services will be delivered by “licensees,” who are defined as “person[s] licensed in the state of Georgia as a Professional Counselor, Social Worker or Marriage and Family Therapist, including Associate licensees.”

Additionally, “[p]rior to the delivery of clinical TeleMental Health, the licensee shall have obtained a minimum of six (6) continuing education hours. The continuing education hours may include but are not limited to the following, in the discretion of the Board [(see text of regulation for full list)]:

- (I) Internet use dependency and psychological problems - an overview of how Internet users become dependent upon the Internet to such an extent that their Internet use is causing serious problems in their lives.
- (II) Research in Telemental Health - review of evidence base for mental health practice conducted using telemental health.
- (III) Intake and Assessment- initial intake and assessment necessary to determine a client’s suitability for telemental health, including informed consent.
- (IV) Delivery Methods - recognize appropriate use of telecounseling, asynchronous email/message posting, synchronous digital chat, video-assisted therapy and other electronically supported modes of delivery. . . If the licensee has taken the hours required in this section within the last 5 years, those hours do not need to be repeated in order to meet requirements in this section.”

Note that regulations also included requirements related to TeleMental Health Supervision and training of TeleMental Health Supervisors.

[GA. COMP. R. & REGS. § 135-11-.01.](#)

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

“Prior to the delivery of TeleMental Health services by a licensee via technology-assisted media, the licensee at the distant site shall inform the client that TeleMental Health services via technology-assisted media will be used, and the licensee shall obtain verbal and written consent from the client for this use. The verbal and written consent shall be documented in the client’s record. Consent must include disclosure of the use of any third party vendor such as a record keeping, billing service or legal counsel.”

Further, “[c]areful assessment using assessment instruments referenced in Rule 135.-7-.05 as appropriate is required in order to determine whether an individual may be properly assessed and/or treated via TeleMental Health services through technology-assisted media. Clients who cannot be treated properly via TeleMental Health services should be treated in person, or else they should not be accepted as clients or, if already accepted, properly terminated with appropriate referrals.”

[GA. COMP. R. & REGS. § 135-11-.01.](#)



## GEORGIA

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

No.

**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?**

See “TeleMental Health” definition in above.

### COUNSELORS

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

[Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and Family Therapists](#)

**What are the restrictions on the scope of practice for counselors 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)?**

The same requirements applicable to social workers apply to counselors. *See Social Workers section above.*

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

The same requirements applicable to social workers apply to counselors. *See Social Workers section above.*

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

No.

**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?**

See “TeleMental Health” definition above.



## GEORGIA

### MARRIAGE/FAMILY THERAPISTS

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

[Georgia Composite Board of Professional Counselors, Social Workers, and Marriage and Family Therapists](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

The same requirements applicable to social workers apply to marriage/family therapists. *See Social Workers section above.*

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

The same requirements applicable to social workers apply to marriage/family therapists. *See Social Workers section above.*

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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?**

*See "TeleMental Health" definition above.*

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Georgia Board of Nursing](#)

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

None identified.



## GEORGIA

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

Yes, a license issued by the Georgia Board of Nursing is required, with limited exceptions.

Georgia defines an APRN as “a registered professional nurse licensed under [the nursing practice act]” who is recognized by the Georgia Board of Nursing as having met certain additional requirements. See GA. CODE ANN. § 43-26-3. Information discussed in this section regarding “nurses” also applies to APRNs.

Georgia Board of Nursing guidance states, “If a nurse from another state provides nursing to a resident of Georgia, except as excluded in the Nursing Practice Act, GA. CODE ANN. § 43-26-12, the nurse must hold a valid Georgia nursing license in order to practice nursing in the State of Georgia and/or with Georgia residents.”

[Ga. Board of Nursing, Policy Statement: Telephonic Nursing \(last viewed Jan. 17, 2016\)](#); see also the Georgia Medical Board telemedicine regulation discussed in the Psychiatrists section (above), which applies to APRNs (i.e., requiring treatment or consultation by electronic means to be done through “Georgia licensed practitioners”).

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

The requirements outlined in the Georgia Medical Board telemedicine regulation (discussed in the Psychiatrists section above) apply to APRNs. These requirements must be met when an APRN is providing treatment and/or consultation recommendations by electronic or other such means.

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

Yes.

In order to prescribe in Georgia, an APRN must have a nurse protocol agreement with a physician and comply with all requirements in the applicable regulations (e.g., [GA. CODE ANN. § 43-34-25](#); [GA. COMP. R. & REGS. §§ 360-32-.01 & 360-32-.02](#)).

The requirements outlined in the Georgia Medical Board telemedicine regulation (discussed in the Psychiatrists section above) apply to APRNs. These requirements must be met when an APRN is providing treatment and/or consultation recommendations by electronic or other such means.

### 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, according to Georgia Board of Nursing guidance, “[t]elenursing involves nursing practice via electronic means such as telephone, satellite, or computer. Examples of telenursing practice may include teaching, consulting, triaging, advising or providing direct services, to name but a few. All of these actions constitute the practice of nursing, even when there is no face-to-face or physical contact with a person or patient. . . . Telenursing may also involve practicing nursing across state lines. For example: A nurse working in an emergency hotline center in Virginia may provide advice to clients in Georgia.”

[Ga. Board of Nursing, Policy Statement: Telephonic Nursing \(last viewed Jan. 17, 2016\)](#).



## GEORGIA

### PRIVACY/CONFIDENTIALITY

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

The Georgia Medical Practice Act provides that all persons subject to the Act “shall be required to comply with all applicable requirements of the laws of [Georgia] relating to the maintenance of patient records and the confidentiality of patient information, regardless of where such physician or health care provider may be located and regardless of where or how the records of any patient located in this state are maintained.”

[GA. CODE ANN. § 43-34-31.](#)

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

Under the Georgia Medical Board telemedicine regulations, “[t]he patient being treated via electronic or other means or the patient’s agent must be provided with clear, appropriate, accurate instructions on follow-up in the event of needed emergent care related to the treatment. In the case of prison patients, prison staff will be provided this information if the consult is provided to an inmate.”

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

#### 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?

Yes.

Under the Georgia Medical Board telemedicine regulations, “[t]he physician, physician assistant or nurse practitioner who provides care or treatment for a patient by electronic or other such means must make diligent efforts to have the patient seen and examined in person by a Georgia licensed physician, physician assistant or nurse practitioner at least annually” (emphasis added).

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



## GEORGIA

### 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.

Under the Georgia Telemedicine Act, “every health benefit policy that is issued, amended, or renewed [on or after July 1, 2005] shall include payment for services that are covered under such health benefit policy and are appropriately provided through telemedicine in accordance with Code Section 43-34-31 and 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 Code section may be subject to all terms and conditions of the applicable health benefit plan.”

“Health Benefit Policy” means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, those contracts executed by the State of Georgia on behalf of state employees under Article 1 of Chapter 18 of Title 45, by an insurer.

[GA. CODE ANN. § 33-24-56.4.](#)

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

None identified.

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

Yes.

The Georgia Medicaid Handbook provides the following definitions:

Telemedicine is the use of medical information exchange from one site to another via electronic communications to improve patients’ 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 telecommunication equipment. Closely associated with telemedicine is the term “telehealth,” which is often used to encompass a broader definition of remote healthcare that does not always involve clinical services. Telehealth is the use of telecommunication 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.

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



## GEORGIA

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

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* also lays out specific requirements in various categories, as follows (see full text of handbook for further detail and full scope of coverage criteria):

#### Providers:

- » Medicaid providers who may bill for a covered telemedicine service include the following: a physician, nurse practitioner, a physician assistant, a clinical nurse specialist, and a clinical psychologist.

#### 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 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.
  4. The referring provider must be requesting the opinion, advice or service of another provider for a specific medical problem, illness or injury.
  5. 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.
  6. 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.
  7. 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.
  8. 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 (Please see the Consent/Refusal form in the appendix).



## GEORGIA

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

Providers may utilize a consent form other than the one attached to this guide; however, it must, at a minimum, contain the same requirements, standards and information listed on the Consent/Refusal form in this guide.

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 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.”

#### Reimbursement:

- » “Telemedicine includes consultation, diagnostic and treatment services. In the reimbursement fee structure, there is usually no distinction made between services provided on site and those provided through telemedicine and often no separate coding required for billing of remote services. The payment amount for the professional service provided via a telecommunications system by the physician or practitioner at the distant site is equal to the current physician fee schedule amount for the service. For payment to occur the service must be within the practitioner’s scope of practice under Georgia state law. Providers will be reimbursed under their applicable category of service fee schedule.”
- » “Post payment review may result in adjustments to payment when a telemedicine modifier is billed inappropriately or not billed when appropriate.”

#### Non-Covered Services:

- » Telephone conversations
- » Electronic mail messages
- » Facsimile
- » 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
- » Video cell phone interactions
- » The cost of telemedicine equipment and transmission

#### Technology:

- » “An interactive telecommunications system is required as a condition of payment. The originating site’s system, at a minimum, must have the capability of allowing the distant site provider to visually examine the patient’s entire body including body orifices (such as ear canals, nose and throat). The distant site provider should also have the capability to hear heart tones and lung sounds clearly (using a stethoscope) if medically necessary and



## GEORGIA

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

currently within the provider's scope of practice. The telecommunication system must be secure and adequate to protect the confidentiality and integrity of the information transmitted."

- » "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 patient 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."

[Ga. Department of Community Health, Georgia Medicaid Telemedicine Handbook \(Jan. 2016\).](#)

## CONTROLLED SUBSTANCES

### How are "controlled substances" defined by the state?

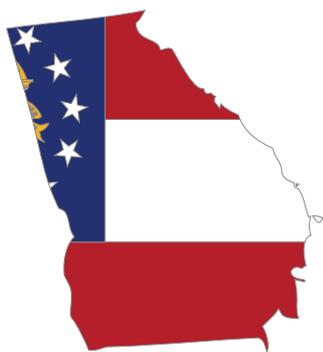
Georgia defines the term "controlled substance" to mean a drug, substance, or immediate precursor in Schedules I through V of Code Sections 16-13-25 through 16-13-29 and Schedules I through V of 21 C.F.R. Part 1308.

[GA. CODE ANN. § 16-13-21.](#)

### What are the requirements/laws governing the prescribing of "controlled" substances?"

The Georgia Composite Medical Board's rules consider several activities related to prescribing controlled substances to be unprofessional conduct, including (among others):

- "Prescribing controlled substances for a known or suspected habitual drug abuser or other substance abuser in the absence of substantial justification."
- "Writing prescriptions for controlled substances for personal use or, except for documented emergencies, for immediate family members. For purposes of this rule, "immediate family members" include spouses, children, siblings, and parents."
- "Prescribing, ordering, dispensing, administering, selling or giving any amphetamine, sympathomimetic amine drug or compound designated as a Schedule II Controlled Substance under GA. CODE ANN. T. 16, Ch. 13, to or for any person except in the following situations:



## GEORGIA

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

- » Treatment of any of the following conditions:
  - Attention deficit disorder;
  - Drug induced brain dysfunction;
  - Narcolepsy and/or hypersomnolence;
  - Epilepsy; or
  - Depression or other psychiatric diagnosis.
- » For clinical investigations conducted under protocols approved by a state medical institution permitted by the Georgia Department of Human Services (DHS) with human subject review under the guidelines of the United States Department of Health and Human Services.”
- “Failing to maintain appropriate patient records whenever Schedule II, III, IV or V controlled substances are prescribed. Appropriate records, at a minimum, shall contain the following:
  - » The patient’s name and address;
  - » The date, drug name, drug quantity, and patient’s diagnosis necessitating the Schedule II, III, IV, or V controlled substances prescription; and
  - » Records concerning the patient’s history.”

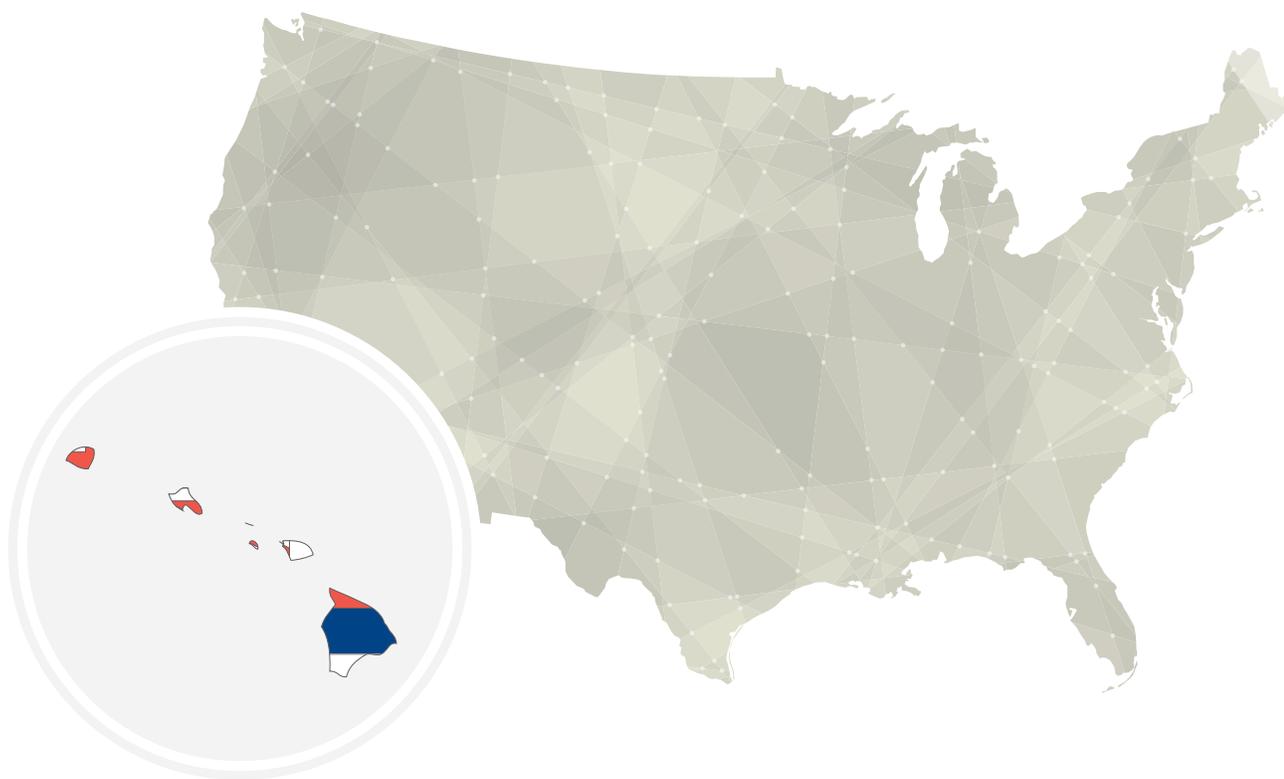
[GA. COMP. R. & REGS. § 360-3-.02](#) (see text of regulation for full list).

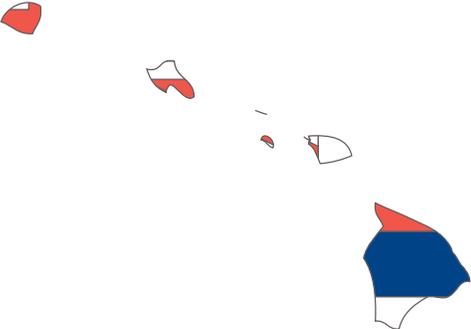
Under Georgia’s controlled substances act, the following restrictions apply to prescriptions of controlled substances (among others):

- “When a practitioner writes a prescription drug order to cause the dispensing of a Schedule II substance, he or she shall include the name and address of the person for whom it is prescribed, the kind and quantity of such Schedule II controlled substance, the directions for taking, the signature, and the name, address, telephone number, and DEA registration number of the prescribing practitioner. Such prescription shall be signed and dated by the practitioner on the date when issued, and the nature of such signature shall be defined in regulations promulgated by the State Board of Pharmacy. Prescription drug orders for Schedule II controlled substances may be transmitted via facsimile machine or other electronic means only in accordance with regulations promulgated by the State Board of Pharmacy in accordance with Code Section 26-4-80 or 26-4-80.1, or in accordance with DEA regulations at 21 C.F.R. 1306.”
- “When a practitioner writes a prescription drug order to cause the dispensing of a Schedule III, IV, or V controlled substance, he or she shall include the name and address of the person for whom it is prescribed, the kind and quantity of such controlled substance, the directions for taking, the signature, and the name, address, telephone number, and DEA registration number of the practitioner. Such prescription shall be signed and dated by the practitioner on the date when issued or may be issued orally, and the nature of the signature of the prescriber shall meet the guidelines set forth in Chapter 4 of Title 26, the regulations promulgated by the State Board of Pharmacy, or both such guidelines and regulations.”
- “No person shall prescribe or order the dispensing of a controlled substance, except a registered practitioner who is: (1) Licensed or otherwise authorized by this state to prescribe controlled substances; (2) Acting in the usual course of his professional practice; and(3) Prescribing or ordering such controlled substances for a legitimate medical purpose.”

[GA. CODE ANN. § 16-13-41](#) (see text of statute for full list).

# HAWAII





## HAWAII

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

In a section entitled the “Practice of telehealth,” Hawaii’s Medical Practice Act defines “telehealth” as the use of telecommunications as that term is defined in section 269-1 [(see the bullet directly below)], 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 purposes of delivering enhanced healthcare services and information to parties separated by distance, establishing a physician-patient relationship, evaluating a patient, or treating a patient.

[HAW. REV. STAT. § 453-1.3.](#)

“Telecommunications” means

the 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 the Medical Practice Act related to licensure requirements defines “telehealth” slightly differently (see the last portion of the definition): “the 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.](#)

The Hawaii Board of Nursing defines “telehealth” as “the use of electronic information and telecommunication technologies to support long-distance clinical health care, patient and professional health-related education, public health and health administration, to the extent that it relates to nursing.”

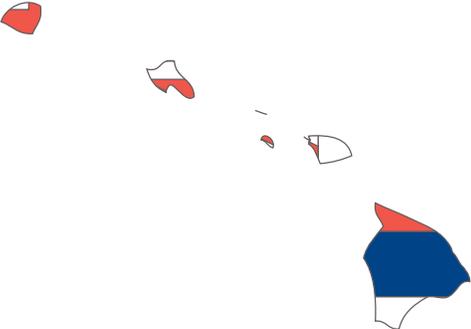
[HAW. REV. STAT. § 457-2.](#)

The insurance parity provisions define “telehealth” as “the use of telecommunications services, as 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 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.](#)

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

None identified.



## HAWAII

### PSYCHIATRISTS

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

[Hawaii Professional and Vocational Licensing](#)

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

None identified.

The Medical Practice Act's telehealth provisions generally state, "Nothing in this section shall preclude any physician acting within the scope of the physician's license to practice from practicing telehealth."

[HAW. REV. STAT. § 453-1.3.](#)

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

Yes.

Per the Medical Practice Act, "[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. 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.](#)

However, the licensing provisions of the Medical Practice Act expressly do not apply to "any 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\(b\)\(4\).](#)

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

The Medical Practice Act provides that “[t]elehealth 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.](#)

The 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 and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.”
- “In 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; SB2469.](#)

*Note: In 2014, legislation was passed amending HAW. REV. STAT. § 431:10A-116.3 (see SB2469 link directly above). However, it does not appear that the Hawaii Revised Statutes have been updated to reflect this revision.*

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

Yes.

The 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 a controlled substance, a physician-patient relationship shall be established pursuant to chapter 329.

[HAW. REV. STAT. § 453-1.3.](#)

Chapter 329 (the Controlled Substances Act) defines the “physician-patient relationship” as “the 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****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, see the applicable “telehealth” definitions above.

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

[Hawaii Professional and Vocational Licensing](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, the Psychology Practice Act notes that “[e]xcept as otherwise provided in this chapter [(no exceptions appear applicable)], 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.](#)

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

The 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 and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.”
- “In 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; SB2469.](#)

**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 [HB1072](#).

**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, see the “telehealth” definition under the insurance parity provisions above.

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

[Hawaii Professional and Vocational Licensing](#)

**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)?**

None identified.

However, the Social Work Practice Act states, “No person shall purport to be a ‘social worker’, ‘licensed bachelor social worker’, ‘licensed social worker’, ‘licensed clinical social worker’, or use the letters ‘S.W.’, ‘L.B.S.W.’, ‘L.S.W.’, or ‘L.C.S.W.’ in connection with the person’s name, or use any words or symbols indicating or tending to indicate that the person is a social worker, licensed bachelor social worker, licensed social worker, or licensed clinical social worker, or engage in the practice of social work as defined in this chapter without meeting the applicable requirements and holding a license as set forth in this chapter.”

[HAW. REV. STAT. § 467E-5.](#)

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

The 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 and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.”
- “In 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; SB2469.](#)

**HAWAII**

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

No.

**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, see the “telehealth” definition under the insurance parity provisions above.

**COUNSELORS**

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

[Hawaii Professional and Vocational Licensing](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, under the Mental Health Counselor Practice Act, “[n]o person shall engage in the practice of mental health counseling or use the title of ‘licensed mental health counselor’ or ‘mental health counselor’ without a valid license issued under this chapter.”

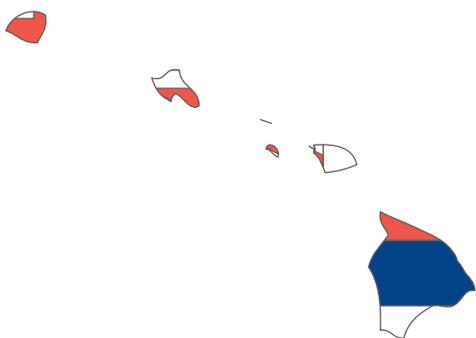
[HAW. REV. STAT. § 453D-5.](#)

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

The 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 and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.”
- “In 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; SB2469.](#)

**HAWAII**

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

No.

**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, see the “telehealth” definition under the insurance parity provisions above.

### MARRIAGE/FAMILY THERAPISTS

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

[Hawaii Professional and Vocational Licensing](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

However, under the Hawaii Marriage and Family Therapist Act, “[n]o person shall use the title 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?**

The 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 and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.”
- “In 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; SB2469.](#)

**HAWAII**

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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, see the “telehealth” definition under the insurance parity provisions above.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Hawaii Professional and Vocational Licensing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

However, under Hawaii Board of Nursing regulations, the following is considered unprofessional conduct: “Practicing nursing within this State without a valid current license.”

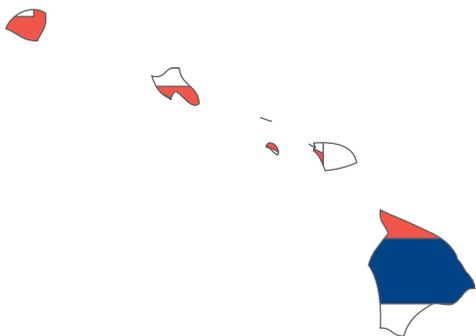
[HAW. CODE R. § 16-89-60.](#)

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

The 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 and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.”
- “In 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; SB2469.](#)

**HAWAII**

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

Yes.

“APRNs who are granted prescriptive authority shall only prescribe drugs appropriate to their practice specialties as recognized by the board and in accordance with the exclusionary formulary.”

[HAW. CODE R. § 16-89-116.](#)

Under the 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.” Thus, it appears that the standard outlined in the “Psychiatrists” section above (regarding forming a physician-patient relationship) would apply.

[HAW. REV. STAT. § 329-41.](#)

**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, see the “telehealth” definition under the insurance parity provisions above.

**PRIVACY/CONFIDENTIALITY**

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

The Hawaii Medical Practice Act provides that “[a]ll medical reports resulting from telehealth services are part of a patient’s health record and shall be made available to the patient. Patient medical records shall be maintained in compliance with all applicable state and federal requirements including privacy requirements.”

[HAW. REV. STAT. § 453-1.3.](#)

**MINORS**

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

None identified.

**HAWAII****FOLLOW-UP CARE****What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

However, as noted above, “[t]reatment 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.”

[HAW. REV. STAT. § 453-1.3.](#)

**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?**

None identified.

**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.

The 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.”
- “Reimbursement for 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. 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 and the patient is accompanied by a treating health care provider at the time telehealth services are provided by the consulting health care provider; provided that when behavioral health services are provided, a second health care provider shall not be required to accompany the patient.”

**HAWAII**

**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?** CONTINUED

- “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, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.”

[HAW. REV. STAT. § 431:10A-116.3; SB2469.](#)

Also, the Hawaii 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.](#)

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

None identified.

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

Yes.

Hawaii Medicaid regulations provide the following definitions/coverage criteria/limitations:

- “Telehealth services [involve] the use of communication equipment to link health care practitioners and patients in different locations. It may be used in place of a face-to-face, “hands on” encounter for consultation, office visits, individual psychotherapy and pharmacologic management.”
- “Telehealth services may be provided to patients only if they are presented from an originating site located in either a:
  - (1) Rural Health Professional Shortage Area (HPSA) as defined by section 332(a)(1)(A) of the Public Health Service Act;
  - (2) In a county outside of a Metropolitan Statistical Area, as defined by Section 1886(d)(2)(D) of the Social Security Act; or
  - (3) From an entity that participates in a Federal telemedicine demonstration project that has been approved by the Secretary of Health and Human Services as of December 31, 2000.”

**HAWAII**

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

- “Interactive audio and video telecommunication systems must be used. Interactive telecommunications systems must be multi-media communications that, at a minimum, include audio and video equipment, permitting real-time consultation among the patient, consulting practitioner, and referring practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the requirements of interactive telecommunications system. As a condition of payment the patient must be present and participating in the telehealth visit.”
- “An originating site is the location of a patient at the time the service being furnished via a telecommunications system occurs. Originating sites authorized to furnish telehealth services are listed below:
  - (1) The office of a physician or practitioner;
  - (2) A hospital;
  - (3) A critical access hospital;
  - (4) A rural health clinic; and
  - (5) A federally qualified health center.

An exception to this provision is an entity participating in a Federal telehealth demonstration project that is approved by or is receiving funding from the Secretary of Health and Human Services as of December 31, 2000. An entity participating in a Federal telehealth demonstration project qualifies as an originating site regardless of geographic location.”

- “A distant site is the site at which the physician or practitioner delivering the service is located at the time the service is provided via a telecommunications system.”
- “Coverage of telehealth services is based on Medicare’s criteria. Each provider must bill the appropriate CPT procedure code with the modifier code “TM” indicating the services were provided via telehealth. Only providers eligible to participate in the medical assistance program will be reimbursed for telehealth services. Reimbursements to an originating site and distant site are based on the Hawaii Medicaid fee schedule.”

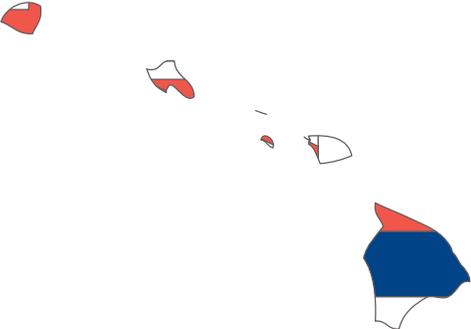
[HAW. CODE R. § 17-1737-51.1.](#)

**CONTROLLED SUBSTANCES**

**How are “controlled substances” defined by the state?**

Under the Hawaii Controlled Substances Act, “controlled substance” means “a drug, substance, or immediate precursor in Schedules I through V of part II.”

[HAW. REV. STAT. § 329-1.](#)



## HAWAII

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

Under the Hawaii 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
  - (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.](#)

As noted in the “Psychiatrists” section above, “[f]or the purposes of prescribing a controlled substance, a physician-patient relationship shall be established pursuant to chapter 329.”

[HAW. REV. STAT. § 453-1.3.](#)

“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





## IDAHO

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

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. These services include, but are not limited to, clinical care, health education, home health, and facilitation of self-managed care, and caregiver support.

[IDAHO CODE ANN. § 54-5703.](#)

Idaho Medicaid policy defines “telehealth” as health care services provided by a provider to a participant through the use of electronic communications, information technology, or synchronous interaction between a provider at a distant site and a patient at an originating site.

[Idaho Medicaid Telehealth Policy \(2/1/2016\).](#)

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

None identified.

## PSYCHIATRISTS

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

[State of Idaho Board of Medicine](#)

### 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 in accordance with all applicable laws and rules, including 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)?

Yes.

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

[Idaho Medicaid Telehealth Policy \(2/1/2016\).](#)

Idaho is now part of the Interstate Medical Licensure Compact, a new, voluntary, and expedited pathway to licensure for qualified physicians who wish to practice in multiple states, increasing access to health care for patients in underserved or rural areas and allowing them to more easily connect with medical experts through the use of telemedicine technologies.

[IDAHO CODE ANN. § 54-1853.](#)



## 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.](#)

Within the context of Medicaid:

- before an initial telehealth visit, the practitioner must ensure that any written information is provided to the participant in a form and manner that the participant can understand using reasonable accommodations, when necessary;
- the individual treatment record must include written documentation of the services provided, participant consent, and the mode of delivery, and the documentation must be of the same quality as is originated during an in-person visit;
- if the participant (or legal guardian) indicates at any point that he or she wants to stop using the technology, the service should cease immediately and an alternative (in-person) appointment should be scheduled; and
- the participant should be given the opportunity to comment on the delivery of the services through a post-conference evaluation form.

[Idaho Medicaid Telehealth Policy \(2/1/2016\).](#)

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

Yes.

A provider with an established provider-patient relationship may issue prescription drug orders using telehealth services within the scope of the provider’s license and according to any applicable laws, rules, and regulations, including the Idaho community standard of care, provided that the prescription is not a controlled substance unless prescribed in compliance with federal law (21 U.S.C. § 802(54)(A)).

[IDAHO CODE ANN. § 54-5707.](#)

### 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?

Within the context of Medicaid, reimbursement is not available for a telephone conversation, electronic mail message (e-mail), or facsimile transmission (fax) between a physician and a participant. Services will not be reimbursed when provided via a videophone or webcam.

[IDAHO ADMIN. CODE r.16.03.09; Idaho Medicaid Telehealth Policy \(2/1/2016\).](#)



## IDAHO

### PSYCHOLOGISTS

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

[Idaho State Board of Psychologist Examiners](#)

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

Same restrictions apply to psychologists as described above for 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 license issued by the Idaho State Board of Psychologist Examiners is generally required to practice as a psychologist in Idaho.

[IDAHO CODE ANN. § 54-2303.](#)

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

Same criteria apply to psychologists as described above for psychiatrists.

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

No.

**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.

### SOCIAL WORKERS

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

[Idaho Board of Social Work Examiners](#)



## IDAHO

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

Same restrictions apply to social workers as described above for 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 license issued by the Idaho Board of Social Examiners is generally required to practice as a social worker in Idaho.

[IDAHO CODE ANN. § 54-3214.](#)

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

Same criteria apply to social workers as described above for psychiatrists.

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

No.

### 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.

## COUNSELORS

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

[Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists](#)

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

Same restrictions apply to counselors as described above for 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 license issued by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists is generally required to practice as a counselor in Idaho.

[IDAHO CODE ANN. § 54-3402.](#)



## IDAHO

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

Same criteria apply to counselors as described above for psychiatrists.

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

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

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

[Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists](#)

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

*See Counselors section above.*

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

*See Counselors section above.*

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

*See Counselors section above.*

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.



## IDAHO

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Idaho Board of Nursing](#)

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

Same restrictions apply to APRNs as described above for 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 license issued by the Idaho Board of Nursing is generally required to practice as an APRN in Idaho.

[IDAHO CODE ANN. § 54-1409.](#)

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

Same criteria apply to APRNs as described above for psychiatrists.

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

Yes.

“An advanced practice registered nurse is authorized to perform advanced nursing practice, which may include the prescribing, administering and dispensing of therapeutic pharmacologic agents, as defined by board rules.”

[IDAHO CODE ANN. § 54-1402.](#)

No telehealth-specific conditions/limits identified.



## IDAHO

**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.

### 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 must 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. These 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?**

In the context of Medicaid, telehealth may be used to provide therapeutic consultation and crisis intervention for children with developmental disabilities. The provider can be a developmental disability agency, an independent Medicaid provider under agreement with the Idaho Department of Health and Welfare, or by the Infant Toddler Program.

The provider must have a doctoral or master's degree in psychology, education, applied behavioral analysis, or have a related discipline with 1,500 hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis, and two years of relevant experience in designing and implementing comprehensive behavioral therapies for children with developmental disabilities and challenging behavior.

[Idaho Medicaid Telehealth Policy \(2/1/2016\).](#)



## IDAHO

### FOLLOW-UP CARE

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

None identified.

**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?**

None identified.

### 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.

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

None identified.

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

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

[Idaho Medicaid Telehealth Policy \(2/1/2016\).](#)



## IDAHO

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Idaho defines “controlled substance” as “a drug, substance or immediate precursor in schedules I through VI of article II of this chapter.”

[IDAHO CODE ANN. § 37-2701.](#)

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

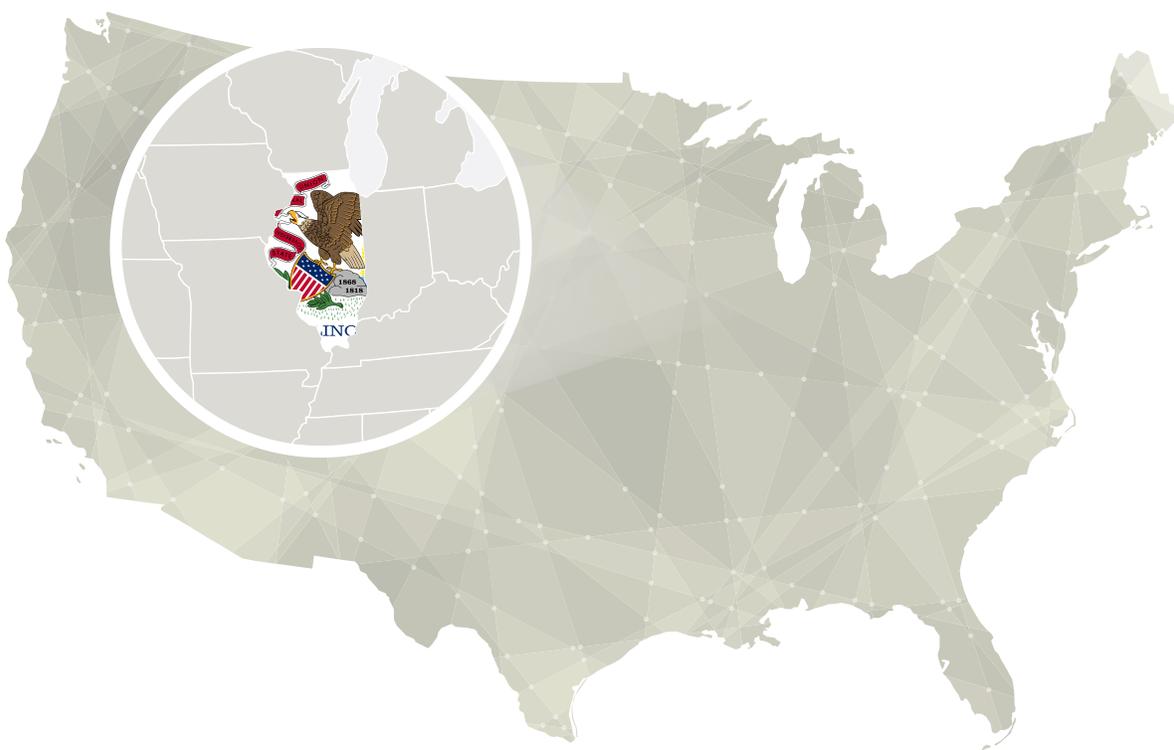
“Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner.”

[IDAHO CODE ANN. § 37-2722.](#)

A provider may not prescribe a controlled substance using telehealth services unless done in compliance with 21 U.S.C. § 802(54)(A).

[IDAHO CODE ANN. § 54-5707.](#)

# ILLINOIS





## 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.](#)

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 or through “store and forward” applications.

[Illinois Dep’t of Healthcare & Family Services Telehealth Services Policy for Individual Practitioners/Providers](#)

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

None identified.

## PSYCHIATRISTS

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

[Illinois Department of Financial & Professional Regulation – Physicians](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

None identified.

However, Illinois law states that an out-of-state person providing a service to a patient residing in Illinois through the practice of telemedicine submits himself or herself to the jurisdiction of the courts of Illinois.

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

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

None identified.

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

Yes.

No telehealth-specific conditions/limits identified.



## ILLINOIS

**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.

### PSYCHOLOGISTS

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

[Illinois Department of Financial and Professional Regulation – Clinical Psychology](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, a license issued by the Illinois Department of Financial and Professional Regulation is generally required to practice as a psychologist in Illinois.

[225 ILL. COMP. STAT. 15/3.](#)

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

None identified.

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

Yes, but there are no specific conditions for telemedicine.

A doctoral level psychologist may obtain prescriptive authority under the following conditions: he or she (i) has undergone specialized training, (ii) has passed an examination as determined by rule, and (iii) has received a current license granting prescriptive authority.

Additionally, a written collaborative agreement for all prescribing psychologists is required with a collaborating physician. A written delegation of prescriptive authority by a collaborating physician may only include medications for the treatment of mental health disease or illness that the collaborating physician generally provides to his or her patients in the normal course of his or her clinical practice, with some exceptions (such as patients during pregnancy).

[225 ILL. COMP. STAT. 15/2 & 15/4.3.](#)



## ILLINOIS

**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.

### SOCIAL WORKERS

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

[Illinois Department of Financial and Professional Regulation – Social Work](#)

**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)?**

None identified.

However, a license issued by the Illinois Department of Financial and Professional Regulation is generally required to practice as a social worker in Illinois.

[225 ILL. COMP. STAT. 20/10.5.](#)

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

None identified.

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

No.

**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.

### COUNSELORS

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

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



## 50-State Survey of Telemental/Telebehavioral Health

**ILLINOIS**

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, a license issued by the Illinois Department of Financial and Professional Regulation is generally required to practice as a counselor in Illinois.

[225 ILL. COMP. STAT. 107/21.](#)

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

None identified.

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

No.

**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.

**MARRIAGE/FAMILY  
THERAPISTS**

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

[Illinois Department of Financial and Professional Regulation – Marriage and Family Therapy](#)

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

None identified.



## ILLINOIS

**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 Illinois Department of Financial and Professional Regulation is generally required to practice as a marriage and family therapist in Illinois.

[225 ILL. COMP. STAT. 55/90.](#)

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

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Illinois Department of Financial & Professional Regulation - Nurses](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

However, a license issued by the Illinois Department of Financial and Professional Regulation is generally required to practice as an APRN in Illinois.

An “advanced practice nurse” is defined as “a person who has met the qualifications for a: (i) certified nurse midwife; (ii) certified nurse practitioner; (iii) certified registered nurse anesthetist; or (iv) clinical nurse specialist, and has been licensed by the Department [of Financial & Professional Regulation].”

[225 ILL. COMP. STAT. 65/50-10.](#)



## ILLINOIS

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

None identified.

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

Yes, the APRN scope of practice description includes “prescriptive authority.”

[225 ILL. COMP. STAT. 65/65-30.](#)

This prescriptive authority is granted under a collaborative agreement with a physician as follows:

- A collaborating physician or podiatric physician may, but is not required to, delegate prescriptive authority to an APRN as part of a written collaborative agreement. This authority may, but is not required to, include the prescription of, selection of, orders for, administration of, storage of, acceptance of samples of, and dispensing over-the-counter medications, legend drugs, medical gases, and controlled substances categorized as any Schedule III through V “controlled substances,” as defined under Illinois law. The collaborating physician or podiatric physician must have a valid current Illinois controlled substance license and federal registration to delegate authority to prescribe delegated controlled substances.
- To prescribe controlled substances, an APRN must obtain a mid-level practitioner controlled substance license. Medication orders must be reviewed periodically by the collaborating physician or podiatric physician.

[225 ILL. COMP. STAT. 65/65-40.](#)

### 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.

## PRIVACY/CONFIDENTIALITY

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

None identified.

## MINORS

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

None identified.



## ILLINOIS

### FOLLOW-UP CARE

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

None identified.

**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?**

None identified.

### 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.

“If an individual or group policy of accident or health insurance provides coverage for telehealth services, then it must comply with the following:

- (1) An individual or group policy of accident or health insurance providing telehealth services may not:
  - (A) require that in-person contact occur between a health care provider and a patient;
  - (B) require the health care provider to document a barrier to an in-person consultation for coverage of services to be provided through telehealth;
  - (C) require the use of telehealth when the health care provider has determined that it is not appropriate; or
  - (D) require the use of telehealth when a patient chooses an in-person consultation.”

[215 ILL. COMP. STAT. 5/356z.22.](#)

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

None identified.



## ILLINOIS

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

Yes.

Physicians, APRNs, podiatrists, federally qualified health centers, rural health clinics, and encounter rate clinics are allowed to provide telemedicine services. In addition, telepsychiatry will be covered, when the physician rendering the service has completed either a general psychiatric residency program or a child/adolescent psychiatric residency program.

[Illinois Dep't of Healthcare & Family Services Telehealth Services Policy for Individual Practitioners/Providers.](#)

The requirements for telepsychiatry include the following:

- A physician, licensed health care professional, or other licensed clinician, mental health professional, or qualified mental health professional must be present at all times with the patient at the originating site.
- The distant site provider must be a physician licensed by 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.
- The originating and distant site provider must not be terminated, suspended, or barred from Department of Healthcare and Family Services medical programs.
- The distant site provider must personally provide the telepsychiatry service.
- Telepsychiatry services must be provided using an interactive communication system.
- Group psychotherapy is not a covered telepsychiatry service.

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

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

Illinois statutes define a “controlled substance” as “a drug, substance, or immediate precursor in the Schedules of Article II of this Act or (ii) a drug or other substance, or immediate precursor, designated as a controlled substance by the [Illinois Department of Human Services] through administrative rule.”

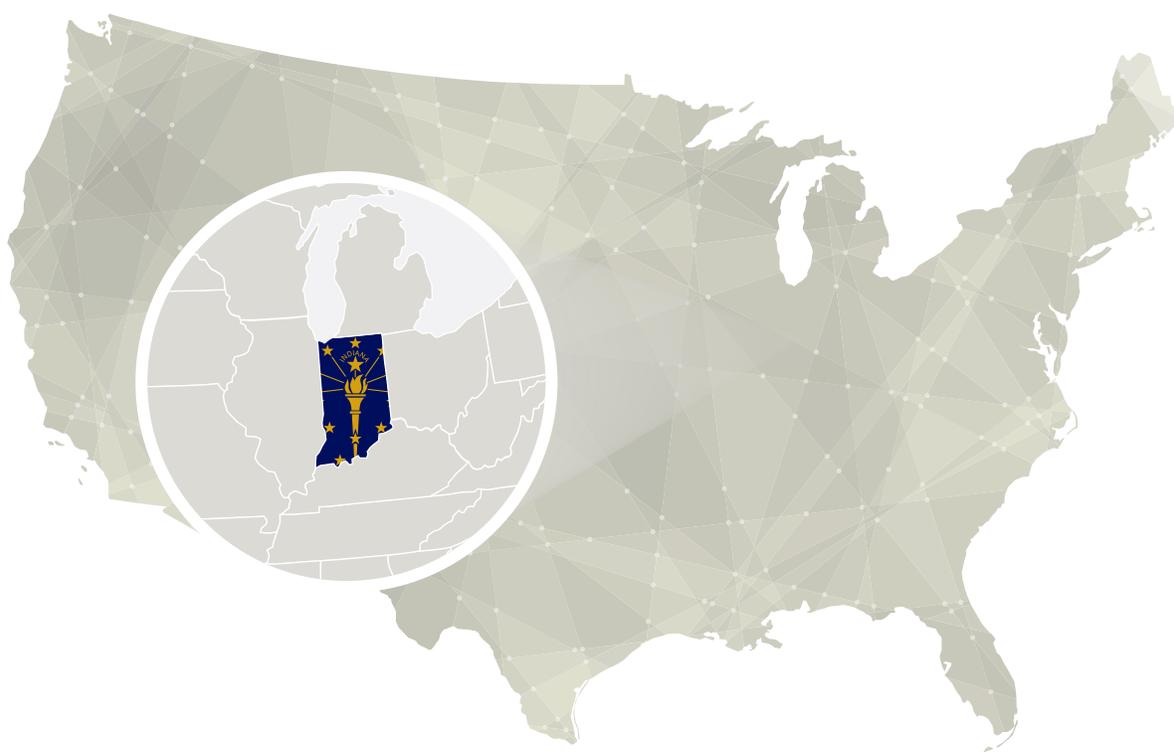
[720 ILL. COMP. STAT. 570/102.](#)

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

“A practitioner, in good faith, may dispense a Schedule II controlled substance . . . to any person upon a written or electronic prescription of any prescriber, dated and signed by the person prescribing (or electronically validated . . .) on the day when issued and bearing the name and address of the patient for whom the controlled substance is dispensed, and the full name, address and registry number under the laws of the United States relating to controlled substances of the prescriber, if he or she is required by those laws to be registered.”

[720 ILL COMP. STAT. 570/312.](#)

# INDIANA





## INDIANA

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

The term “telemedicine” means the delivery of health care services using electronic communications and information technology between a provider in one location and a patient in another, including secure videoconferencing, interactive audio-using store and forward technology, or remote patient monitoring technology. The term does not include, among other things, a telephone call, e-mail, or an instant messaging conversation.

[House Enrolled Act No. 1263.](#)

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

None identified.

## PSYCHIATRISTS

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

[Medical Licensing Board of Indiana](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

None identified.

However, 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.](#)

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

The provider-patient relationship by a provider who uses telemedicine must include, among other things, the following: (i) the patient’s name and contact information; (ii) disclosure of the provider’s name and disclosure of whether the provider is a physician, physician assistant, advanced practice nurse, or optometrist; (iii) informed consent from the patient; (iv) the patient’s medical history and other information necessary to establish a diagnosis; (v) a discussion of the diagnosis with the patient; (vi) the creation and maintenance of a medical record for the patient; and (vii) the issuance of instructions for follow-up care.

[House Enrolled Act No. 1263.](#)



## INDIANA

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

Yes.

A provider may issue a prescription to a patient who is receiving services through the use of telemedicine even if the patient has not been seen previously by the provider in person when certain conditions are met, including (but not limited to) the following: (i) the provider meets the standard of care, (ii) the prescription is within the provider's scope of practice and certification, and (iii) the prescription is not for a controlled substance.

[House Enrolled Act No. 1263.](#)

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

[House Enrolled Act No. 1263.](#)

## PSYCHOLOGISTS

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

[Indiana State Psychology Board](#)

### What are the restrictions on the scope of practice for psychologists 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)?

None identified.

However, a license issued by the Indiana State Psychology Board is generally required to practice as a psychologist in Indiana.

[IND. CODE § 25-33-1-14.](#)



## INDIANA

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

None identified.

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

No.

**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.

### SOCIAL WORKERS

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

[Indiana Behavioral Health and Human Services 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)?**

None identified.

However, a license issued by the Indiana Behavioral Health and Human Services Licensing Board is generally required to practice as a social worker in Indiana.

[IND. CODE § 25-23.6-4-1.](#)

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

None identified.

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

No.

**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.



## INDIANA

### COUNSELORS

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

[Indiana Behavioral Health and Human Services Licensing Board](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, a license issued by the Indiana Behavioral Health and Human Services Licensing Board is generally required to practice as a counselor in Indiana.

[IND. CODE § 25-23.6-4.5-1.](#)

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

None identified.

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

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

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

[Indiana Behavioral Health and Human Services Licensing Board](#)



## 50-State Survey of Telemental/Telebehavioral Health

**INDIANA**

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

However, a license issued by the Indiana Behavioral Health and Human Services Licensing Board is generally required to practice as a marriage and family therapist in Indiana.

[IND. CODE § 25-23.6-3-1.](#)

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

None identified.

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

**ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**

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

[Indiana State Board of Nursing](#)



## INDIANA

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

See Psychiatrists section above.

[House Enrolled Act No. 1263.](#)

### 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 Indiana State Board of Nursing or a “party state” is generally required to practice as an APRN in Indiana.

Any person who holds a license to practice as a registered nurse in:

- (1) Indiana; or
- (2) A party state . . .

may use the title “Registered Nurse” and the abbreviation “R.N.”. No other person shall practice or advertise as or assume the title of registered nurse or use the abbreviation of ‘R.N.’ or any other words, letters, signs, or figures to indicate that the person using same is a registered nurse.

[IND. CODE § 25-23-1-11\(f\).](#)

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

None identified.

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

Yes.

An advanced practice nurse may be authorized to prescribe legend drugs, including controlled substances, upon application and collaboration with a licensed practitioner.

[848 IND. ADMIN. CODE 5-1-1.](#)

For telemedicine purposes, see Psychiatrists section above.

[House Enrolled Act No. 1263.](#)

### 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?

See Psychiatrists section above.

[House Enrolled Act No. 1263.](#)



## INDIANA

### PRIVACY/CONFIDENTIALITY

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

None identified.

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

None identified.

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

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

[House Enrolled Act No. 1263.](#)

**Are there requirements regarding the time frame in which a follow up face-to-face encounter would be required in a telemental/telebehaviorial/telepsychiatric health setting? If so, what are those requirements?**

None identified.

### COVERAGE & REIMBURSEMENT

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

None identified.



## INDIANA

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

None identified.

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

Yes.

Medicaid reimburses the following for providing telemedicine services:

- A home health agency
- A federally qualified health center
- A rural health clinic
- A community mental health center
- A critical access hospital

[IND. CODE § 12-15-5-11.](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

Indiana statutes define “controlled substance” as “a drug, substance, or immediate precursor in schedule I, II, III, IV, or V.”

[IND. CODE § 35-48-1-9.](#)

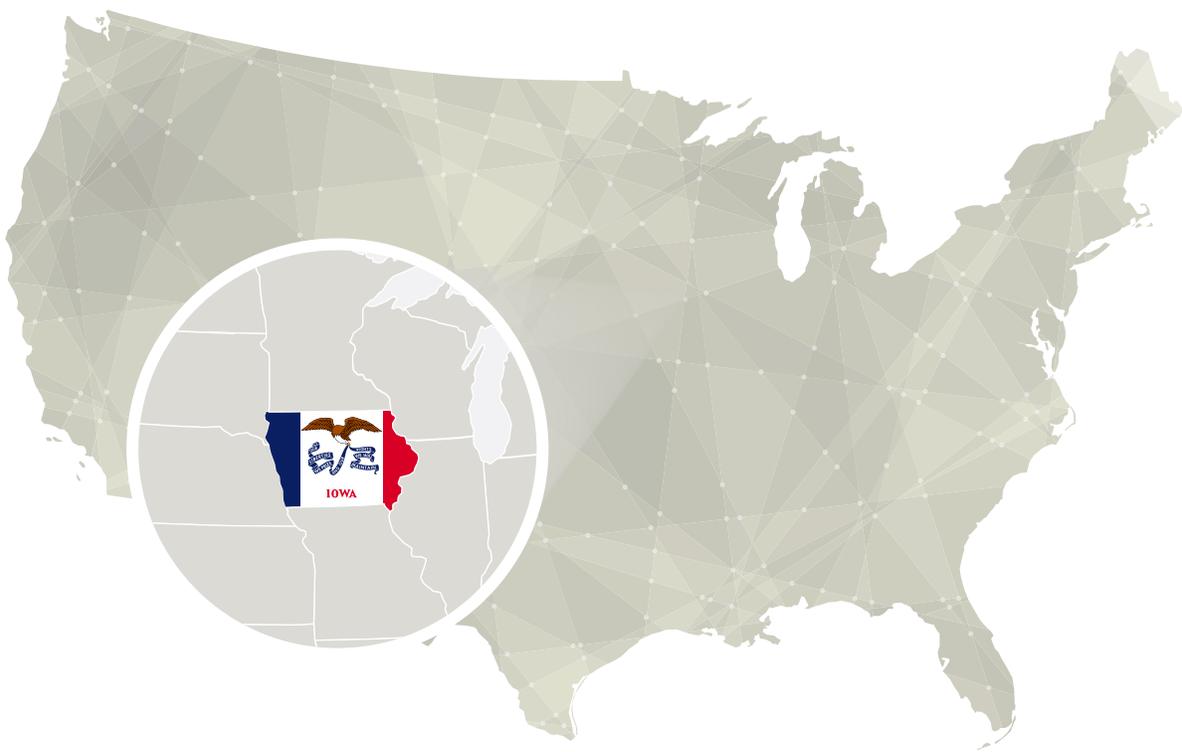
### What are the requirements/laws governing the prescribing of “controlled” substances?”

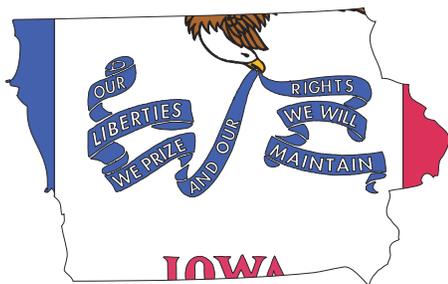
The following are controlled substance prescription requirements:

- A prescription for a controlled substance must be issued for a legitimate medical purpose in a reasonable quantity by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing is upon the prescribing practitioner.
- All prescriptions for controlled substances shall be written with ink, indelible pencil, or typewriter, and shall be issued with the following:
  1. dated as of and signed on the day when issued;
  2. full name and address of patient;
  3. name, address, state issued license number, and DEA registration number of the practitioner;
  4. manual signature of prescriber;
  5. name, strength, dosage, quantity of the drug being prescribed;
  6. directions for use;
  7. number of refills (if any)[.]

[Indiana Professional Licensing Agency, Indiana Board of Pharmacy, Controlled Substance Prescription Requirements.](#)

# IOWA





## 50-State Survey of Telemental/Telebehavioral Health

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

Iowa’s telecommunications regulation defines “telemedicine” as “use of a telecommunications system for diagnostic, clinical, consultative, data, and educational services for the delivery of health care services or related health care activities by licensed health care professionals, licensed medical professionals, and staff who function under the direction of a physician, a licensed health care professional, or hospital for the purpose of developing a comprehensive, statewide telemedicine network or education.”

[IOWA ADMIN. CODE r.751 7.1\(8D\).](#)

The Iowa Board of Medicine rules regarding telemedicine define “telemedicine” as “the practice of medicine using electronic audio-visual communications and information technologies or other means, including interactive audio with asynchronous store-and-forward transmission, between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine includes store-and-forward technologies, remote monitoring, and real-time interactive services, including teleradiology and telepathology.” Telemedicine does not include “the provision of medical services only through an audio-only telephone, e-mail messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.”

[IOWA ADMIN CODE r. 653-13.11\(1\).](#)

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

None identified.

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

[Iowa Board of Medicine](#)

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

“A licensee who uses telemedicine shall ensure that the services provided are consistent with the licensee’s scope of practice, including the licensee’s education, training, experience, ability, licensure, and certification.”

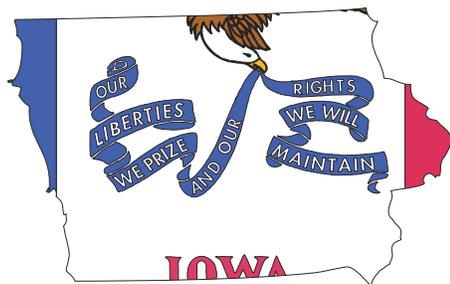
“The [Iowa Board of Medicine] advises that licensees using telemedicine will be held to the same standards of care and professional ethics as licensees using traditional in-person medical care.”

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

**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 Iowa shall hold an active Iowa medical license consistent with state and federal laws.”

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



## 50-State Survey of Telemental/Telebehavioral Health

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

“A [physician] who uses telemedicine shall verify the identity of the patient and ensure that the patient has the ability to verify the identity, licensure status, certification, and credentials of all health care providers who provide telemedicine services prior to the provision of care.”

A physician who uses telemedicine will establish a valid physician-patient relationship with the person who receives telemedicine services. The physician-patient relationship begins when:

- the person with a health-related matter seeks assistance from a physician,
- the physician agrees to undertake diagnosis and treatment of the person, and
- the person agrees to be treated by the physician whether or not there has been an in-person encounter between the physician and the person.

A valid physician-patient relationship may be established by:

- an in-person encounter (through an in-person medical interview and physical examination where the standard of care would require an in-person encounter);
- consultation with another physician (through consultation with another licensee (or other health care provider) who has an established relationship with the patient and who agrees to participate in, or supervise, the patient's care); or
- a telemedicine encounter (through telemedicine, 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).

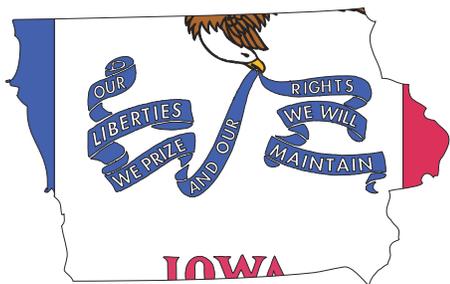
[IOWA ADMIN CODE r. 653-13.11\(7\).](#)

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

Yes.

Prescribing to a patient based solely on an Internet request or Internet questionnaire (i.e., a static questionnaire provided to a patient, to which the patient responds with a static set of answers, in contrast to an adaptive, interactive, and responsive online interview) is prohibited. Absent a valid physician-patient relationship, prescribing to a patient based solely on a telephonic evaluation is prohibited, with certain exceptions, such as a physician taking call or providing cross coverage, or in certain emergencies.

[IOWA ADMIN CODE r. 653-13.11\(21\).](#)



## 50-State Survey of Telemental/Telebehavioral Health

**IOWA**

**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 medical services only through an audio-only telephone, e-mail messages, facsimile transmissions, or U.S. mail or other parcel service, or any combination thereof.

“‘Telemedicine technology’ means technologies and devices enabling secure electronic communications and information exchanges between a licensee in one location and a patient in another location with or without an intervening health care provider.”

[IOWA ADMIN CODE r. 653-13.11\(1\).](#)

**PSYCHOLOGISTS**

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

[Iowa Board of Psychology](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, a license issued by the Iowa Board of Psychology is generally required to practice as a psychologist in Iowa.

[IOWA CODE § 154B.4.](#)

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

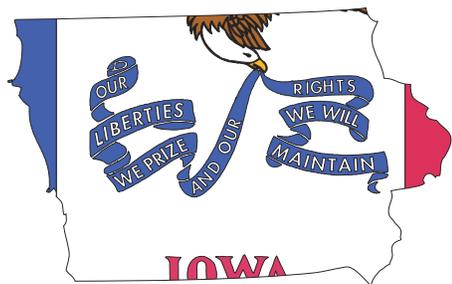
None identified.

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

No.

**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.



## IOWA

### SOCIAL WORKERS

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

[Iowa Board of Social Work](#)

**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)?**

None identified.

However, a license issued by the Iowa Board of Social Work is generally required to practice as a social worker in Iowa.

[IOWA CODE § 154C.2.](#)

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

None identified.

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

No.

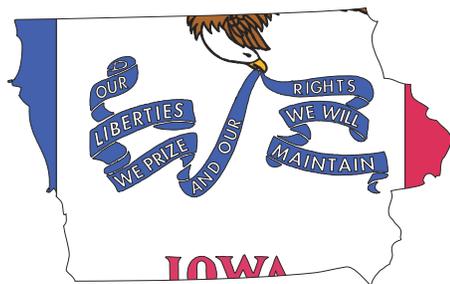
**What are the acceptable modalities (e.g., telephone, video) for the practice of social work via telemedicine/telehealth that meet the standard of care for the state?**

None identified.

### COUNSELORS

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

[Iowa Board of Behavioral Science](#)



## 50-State Survey of Telemental/Telebehavioral Health

**IOWA****What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, a license issued by the Iowa Board of Behavioral Science is generally required to practice as a counselor in Iowa.

“Licensed mental health counselor” is defined as “a person licensed to practice mental health counseling under chapter 147 and this chapter.”

[IOWA CODE § 154D.1.](#)

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

None identified.

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

No.

**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?**

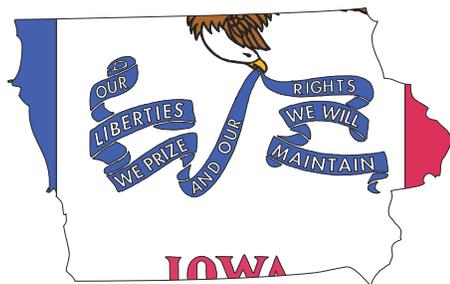
None identified.

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

[Iowa Board of Behavioral Science](#)

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

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**IOWA**

**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 Iowa Board of Behavioral Science is generally required to practice as a marriage and family therapist in Iowa.

“Licensed marital and family therapist” is defined as “a person licensed to practice marital and family therapy under chapter 147 and this chapter.”

[IOWA CODE § 154D.1.](#)

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

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

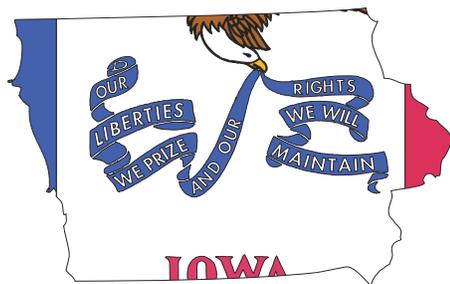
**ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**

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

[Iowa Board of Nursing](#)

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

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**IOWA**

**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, Iowa defines an “advanced registered nurse practitioner” as “a nurse with current licensure as a registered nurse in Iowa or who is licensed in another state and recognized for licensure in this state pursuant to the nurse licensure compact and is also registered in Iowa to practice in an advanced role.”

[IOWA ADMIN. CODE r. 655-7.1.](#)

“A registered nurse who has completed all requirements to practice as an advanced registered nurse practitioner and who is registered with the [Iowa Board of Nursing] to practice shall use the title advanced registered nurse practitioner (ARNP).”

[IOWA ADMIN CODE r. 655-7.2\(3\).](#)

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

None identified.

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

Yes.

Prescriptive authority is “the authority granted to an [APRN] registered in Iowa in a recognized nursing specialty to prescribe, deliver, distribute, or dispense prescription drugs, devices, and medical gases when the nurse is engaged in the practice of that nursing specialty.”

[IOWA ADMIN. CODE r. 655-7.1.](#)

No telehealth-specific conditions/limits identified.

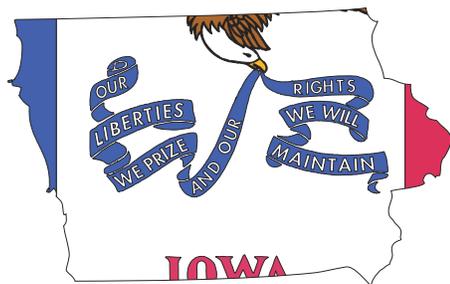
**What are the acceptable modalities (e.g., telephone, video) for the practice of advanced practice nursing via telemedicine/telehealth that meet the standard of care for the state?**

None identified.

**PRIVACY/CONFIDENTIALITY**

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

None identified.



## IOWA

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

A licensed physician “who uses telemedicine shall have access to, or adequate knowledge of, the nature and availability of local medical resources to provide appropriate follow-up care to the patient following a telemedicine encounter.”

[IOWA ADMIN CODE r. 653-13.11\(12\).](#)

**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?**

None identified.

### 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?**

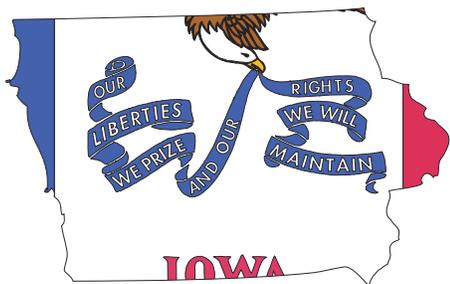
None identified.

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

None identified.

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

None identified.



## IOWA

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Iowa statutes define “controlled substance” as “a drug, substance, or immediate precursor in schedules I through V of division II of this chapter.”

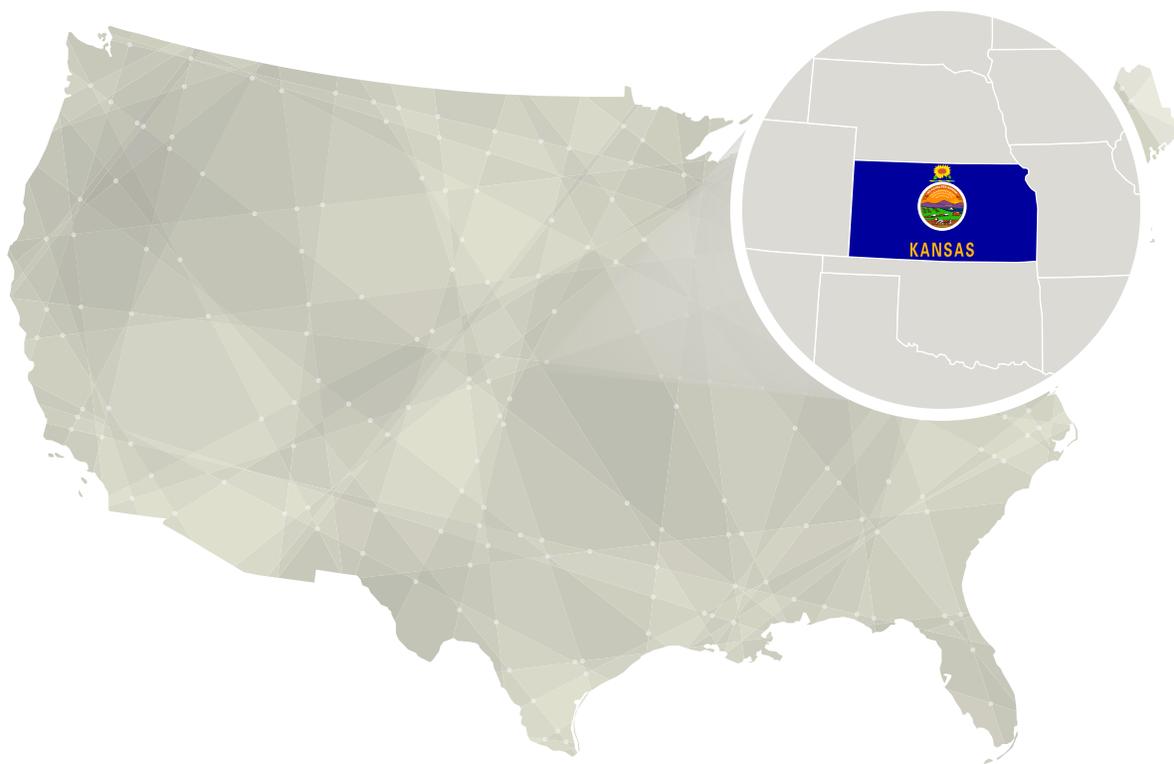
[IOWA CODE § 124.101.](#)

#### 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 without the electronic or facsimile prescription of a practitioner . . . .” Iowa statutes define further restrictions for electronic or faxed prescriptions.

[IOWA CODE § 124.308.](#)

# KANSAS





## KANSAS

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

The Kansas Medicaid provider manual defines “telemedicine” as “the use of communication equipment to link health care practitioners and patients in different locations. This technology is used by health care providers for many reasons, including increased cost efficiency, reduced transportation expenses, improved patient access to specialists and mental health providers, improved quality of care, and better communication among providers.”

[Kansas Medical Assistance Program, Fee-for-Service Provider Manual \(Dec. 2015\).](#)

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

None identified.

## PSYCHIATRISTS

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

[Kansas State Board of Healing Arts](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

None identified.

However, a license issued by the Kansas State Board of Healing Arts is generally required to practice as a psychiatrist in Kansas.

It is unlawful “for any person who does not have a license, registration, permit or certificate to engage in the practice of any profession regulated by the board or whose license, registration, permit or certificate to practice has been revoked or suspended to engage in the practice of any profession regulated by the board.”

[KAN. STAT. ANN. § 65-2803.](#)

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

Kansas Medicaid requires that “[t]he patient (beneficiary) must be present at the originating site.”

[Kansas Medical Assistance Program, Fee-for-Service Provider Manual \(Dec. 2015\).](#)



## KANSAS

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

Yes.

No telehealth-specific conditions/limits identified.

**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 Kansas Medicaid provider manual states that “[e]mail, telephone, and facsimile transmissions are not covered as telemedicine services.”

[Kansas Medical Assistance Program, Fee-for-Service Provider Manual \(Dec. 2015\).](#)

## PSYCHOLOGISTS

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

[Kansas Behavioral Sciences Regulatory Board - Psychologists](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, a license issued by the Kansas Behavioral Sciences Regulatory Board is generally required to practice as a psychologist in Kansas.

“Licensed psychologist” is defined to mean “a person licensed by the board under the provisions of this act.”

[KAN. STAT. ANN. § 74-5302.](#)

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

None identified.



## KANSAS

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

No.

**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.

### SOCIAL WORKERS

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

[Kansas Behavioral Sciences Regulatory Board – Social Workers](#)

**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)?**

None identified.

However, a license issued by the Kansas Behavioral Sciences Regulatory Board is generally required to practice as a social worker in Kansas.

[KAN. STAT. ANN. § 65-6303.](#)

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

None identified.

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

No.

**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.



## KANSAS

### COUNSELORS

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

[Kansas Behavioral Sciences Regulatory Board – Professional Counselors](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, a license issued by the Kansas Behavioral Sciences Regulatory Board is generally required to practice as a counselor in Kansas.

[KAN. STAT. ANN. § 65-5803.](#)

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

None identified.

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

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

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

[Kansas Behavioral Sciences Regulatory Board – Marriage and Family Therapists](#)

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

None identified.



## KANSAS

**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 Kansas Behavioral Sciences Regulatory Board is generally required to practice as a marriage and family therapist in Kansas.

[KAN. STAT. ANN. §65-6403.](#)

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

None identified.

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Kansas State Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

However, a license issued by the Kansas State Board of Nursing is generally required to practice as an APRN in Kansas. The Kansas Nurse Practice Act defines an “advanced practice registered nurse” as “a professional nurse who holds a license from the board to function as a professional nurse in an advanced role.”

[KAN. STAT. ANN. § 65-1113.](#)



## KANSAS

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

None identified.

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

Yes.

“An advanced practice registered nurse may prescribe drugs pursuant to a written protocol as authorized by a responsible physician.”

[KAN. STAT. ANN. § 65-1130.](#)

No telehealth-specific conditions/limits identified.

**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.

### PRIVACY/CONFIDENTIALITY

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

None identified.

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

None identified.

**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?**

None identified.



## KANSAS

### 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.

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

None identified.

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

Yes.

“Office visits, individual psychotherapy, and pharmacological management services may be reimbursed when provided via telecommunication technology.”

[Kansas Medical Assistance Program, \*Fee-for-Service Provider Manual\* \(Dec. 2015\).](#)

### CONTROLLED SUBSTANCES

**How are “controlled substances” defined by the state?**

Kansas statutes define “controlled substance” as “any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.”

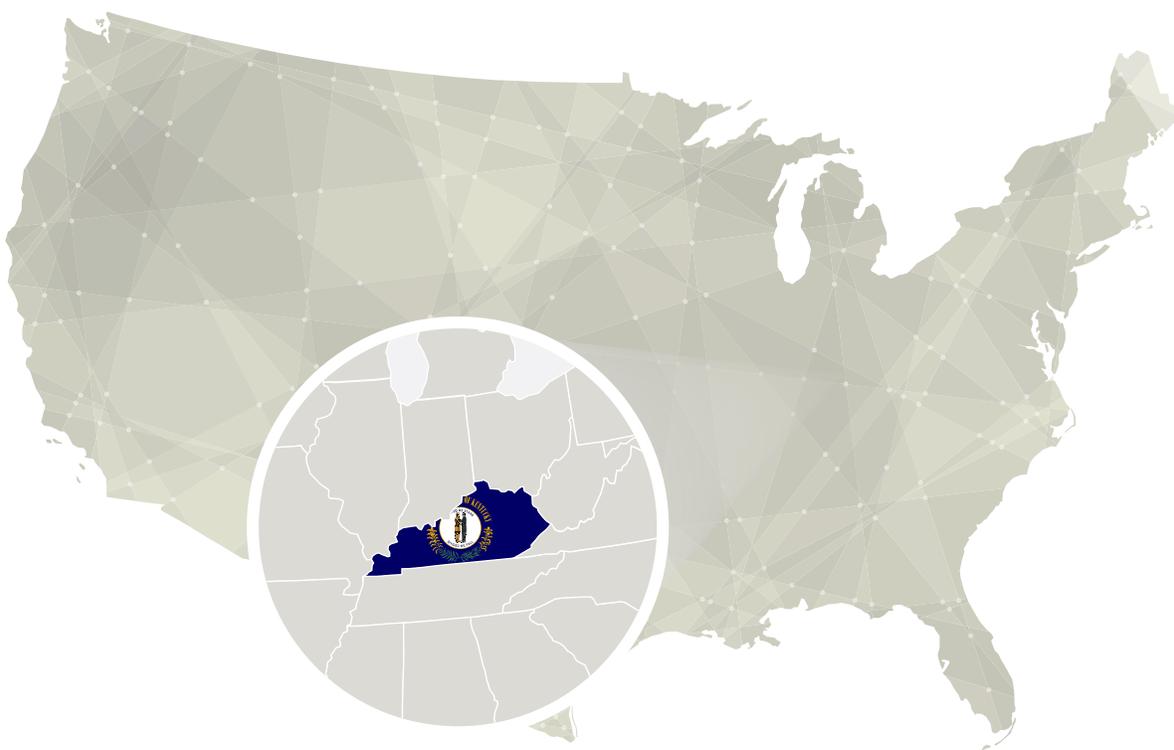
[KAN. STAT. ANN. § 65-4101.](#)

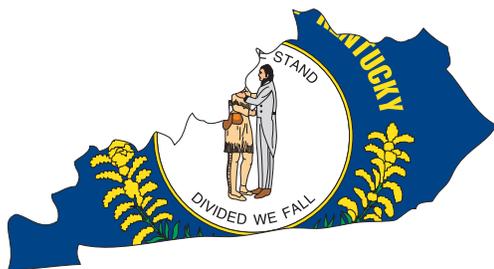
**What are the requirements/laws governing the prescribing of “controlled” substances?”**

“Except when dispensed by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III, IV or V which is a prescription drug shall not be dispensed without either a paper prescription manually signed by a prescriber, a facsimile of a manually signed paper prescription transmitted by the prescriber or the prescriber’s agent to the pharmacy, an electronic prescription that has been digitally signed by a prescriber with a digital certificate, or an oral prescription made by an individual prescriber and promptly reduced to writing. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times.”

[KAN. STAT. ANN. § 65-4123.](#)

# KENTUCKY





## KENTUCKY

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

The Kentucky Medicaid statute defines “telehealth consultation” as “a medical or health consultation, for purposes of patient diagnosis or treatment, that requires the use of advanced telecommunications technology, including, but not limited to:

- (a) Compressed digital interactive video, audio, or data transmission;
- (b) Clinical data transmission via computer imaging for teleradiology or telepathology; and
- (c) Other technology that facilitates access to health care services or medical specialty expertise[.]”

[KY REV. STAT. ANN. § 205.510.](#)

The Kentucky Telepsychology statute 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. § 319.140.](#)

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

Kentucky regulations define “telepsychology” as the “‘practice of psychology’ as defined by [Kentucky Revised Statutes Section] 319.010(7) between the psychologist and the patient:

- (a) Provided using an electronic communication technology; or
- (b) Two (2) way, interactive, simultaneous audio and video.”

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

## PSYCHIATRISTS

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

[Kentucky Board of Medical Licensure](#)

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

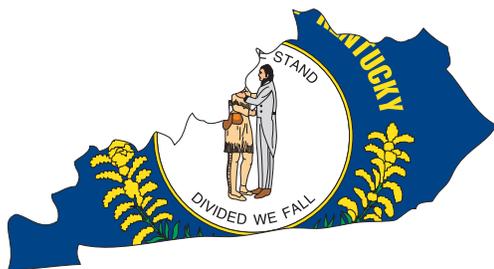
None identified.

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

None identified.

However, a license issued by the Kentucky Board of Medical Licensure is generally required to practice as a psychiatrist in Kentucky.

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



## 50-State Survey of Telemental/Telebehavioral Health

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

“A treating physician who provides or facilitates the use of telehealth shall ensure that the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth.”

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

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

Yes.

No telehealth-specific conditions/limits identified.

**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?**

Regarding health benefit plans, “[a] telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.”

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

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

[Kentucky Board of Examiners in Psychology](#)

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

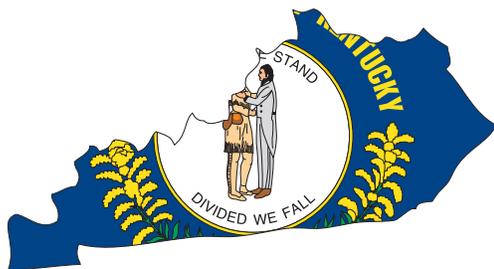
“A credential holder using telehealth to deliver psychological services or who practices telepsychology shall limit the practice of telepsychology to the area of competence in which proficiency has been gained through education, training, and experience.”

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

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

“A credential holder using telehealth to deliver psychological services or who practices telepsychology shall comply with: (1) state law where the credential holder is credentialed and be licensed to practice psychology where the client is domiciled; and (2) Section 508 of the Rehabilitation Act, 29 U.S.C. 794(d), to make technology accessible to a client with disabilities.”

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



## KENTUCKY

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

“A treating psychologist or psychological associate who provides or facilitates the use of telehealth shall ensure that the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth.”

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

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

No.

### 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, the Kentucky regulatory definition of “telepsychology” states that telepsychology services are “provided using an electronic communication technology; or two (2) way, interactive, simultaneous audio and video.”

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

## SOCIAL WORKERS

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

[Kentucky Board of Social Work](#)

### 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)?

None identified.

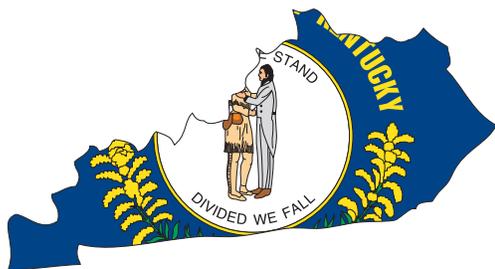
However, a license issued by the Kentucky Board of Social Work is generally required to practice as a social worker in Kentucky.

[KY. REV. STAT. ANN. § 335.030.](#)

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

“A treating clinical social worker who provides or facilitates the use of telehealth shall ensure that the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth.”

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



## KENTUCKY

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

No.

**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.

### COUNSELORS

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

[Kentucky Board of Licensed Professional Counselors](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, a license issued by the Kentucky Board of Licensed Professional Counselors is generally required to practice as a counselor in Kentucky.

[KY. REV. STAT. § 335.505\(1\).](#)

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

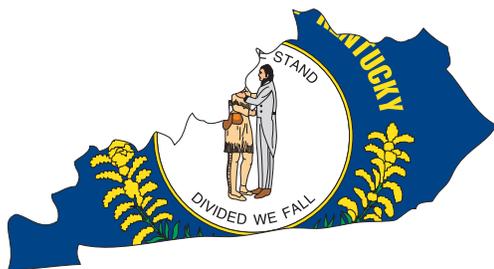
None identified.

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

No.

**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.



## KENTUCKY

### MARRIAGE/FAMILY THERAPISTS

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

[Kentucky Board of Licensure for Marriage and Family Therapists](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

However, a license issued by the Kentucky Board of Licensure for Marriage and Family Therapists is generally required to practice as a marriage and family therapist in Kentucky.

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

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

“A treating marriage and family therapist who provides or facilitates the use of telehealth shall ensure that the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth.”

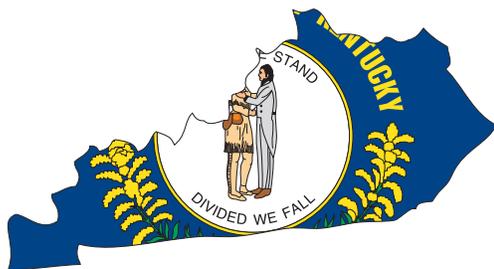
[KY. REV. STAT. ANN. § 335.380\(1\)\(a\).](#)

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.



## KENTUCKY

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Kentucky Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

However, a license issued by the Kentucky Board of Nursing is generally required to practice as an APRN in Kentucky.

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

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

“A treating nurse who provides or facilitates the use of telehealth shall ensure that the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth.”

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

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

Yes.

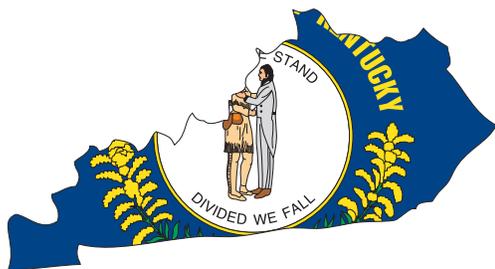
“Prescriptive authority of Advanced Practice Registered Nurse: An Advanced Practice Registered Nurse shall be considered a practitioner for purposes of KRS Chapters 217 and 218A and shall have the authority granted to a practitioner pursuant to those chapters subject to the conditions set forth in KRS 314.042.”

[KY. REV. STAT. ANN. § 314.195.](#)

No telehealth-specific conditions/limits identified.

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

None identified.



## KENTUCKY

### PRIVACY/CONFIDENTIALITY

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

None identified.

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

The Kentucky medical licensure statute requires “that the confidentiality of the patient’s medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.”

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

The Kentucky telepsychology statute requires “that the confidentiality of the patient’s medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.”

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

The Kentucky telepsychology regulations require that providers “ensure that confidential communications obtained and stored electronically cannot be recovered and accessed by unauthorized persons when the credential holder disposes of electronic equipment and data.”

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

The Kentucky social work statute requires “that the confidentiality of the patient’s medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.”

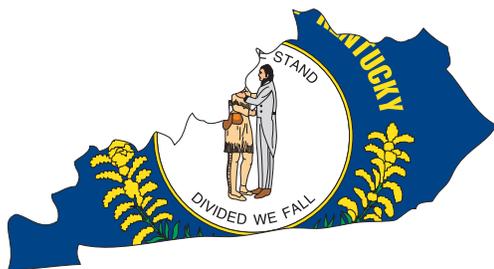
[KY. REV. STAT. ANN. § 335.158\(1\)\(b\).](#)

The Kentucky marriage and family therapy statute requires “that the confidentiality of the patient’s medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.”

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

The Kentucky nursing statute requires “that the confidentiality of the patient’s medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.”

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



## KENTUCKY

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

None identified.

**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?**

None identified.

### 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?**

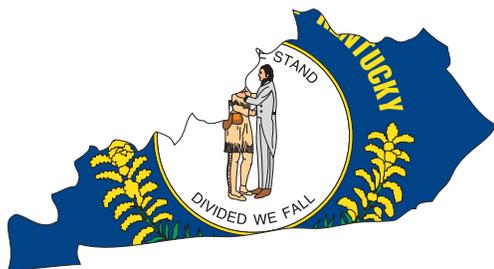
Yes.

“A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation if the consultation is provided through the telehealth network established under KRS 194A.125. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.”

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

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

None identified.



## KENTUCKY

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

Yes.

“The Cabinet for Health and Family Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and that is provided in the telehealth network established in KRS 194A.125(3)(b).”

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

“The department shall reimburse a telehealth provider who is eligible for reimbursement from the department for a telehealth consultation an amount equal to the amount paid for a comparable in-person service.”

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

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

Kentucky statutes define “controlled substance” as a “methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.”

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

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

“Except when dispensed directly by a practitioner to an ultimate user, no methamphetamine or controlled substance in Schedule II may be dispensed without the written, facsimile, or electronic prescription of a practitioner. A prescription for a controlled substance in Schedule II may be dispensed by a facsimile prescription only as specified in administrative regulations promulgated by the cabinet. 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.”

[KY. REV. STAT. ANN. § 218A.180\(1\).](#)

# LOUISIANA





## LOUISIANA

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

“Telemedicine” means “the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data using interactive telecommunication technology that enables a health care practitioner and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither a telephone conversation nor an electronic mail message between a health care practitioner and patient, or a true consultation as may be defined by rules promulgated by the board pursuant to the Administrative Procedure Act, constitutes telemedicine for the purposes of this Part.”

[LA. REV. STAT. ANN. § 37:1262](#); [LA. ARMIN. CODE tit. 46:XLV, § 7503](#).

Louisiana’s Telehealth Access Act defines “telehealth” 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 healthcare providers. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.”

[LA. REV. STAT. ANN. § 40:1223.3\(6\)](#).

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

None identified.

However, the Louisiana State Board of Examiners of Psychologists established “Louisiana Telepsychology Guidelines,” effective as of Jan. 1, 2015, which include the following definition of “telepsychology”:

The practice of psychology which includes assessment, diagnosis, intervention, consultation or information by psychologist using interactive telecommunication technology that enables a psychologist and a client, at two different locations separated by distance to interact via two-way video and audio transmissions simultaneously. Telepsychology is not a separate specialty. If the use of technology is clearly administrative purposes, it would not constitute telepsychology under these guidelines.

[Louisiana State Board of Examiners of Psychologists, Louisiana Telepsychology Guidelines \(Jan. 2015\)](#).

## PSYCHIATRISTS

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

[Louisiana State Board of Medical Examiners](#)



## LOUISIANA

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

According to Louisiana telemedicine regulations, the following restrictions apply, including having a physician present in the room with the patient while delivering telemedicine services:

“No physician shall utilize telemedicine:

1. for the treatment of non-cancer related chronic or intractable pain, as set forth in §§ 6915-6923 of the board’s rules;
2. for the treatment of obesity, as set forth in §§ 6901-6913 of the board’s rules;
3. 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 at a physical practice location in this state within the past year;
  - 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.”

“A physician who practices telemedicine by virtue of a telemedicine permit issued by the board shall not:

1. open an office in this state;
2. meet with patients in this state;
3. receive telephone calls in this state from patients; or
4. engage in the practice of medicine in this state beyond the limited authority conferred by his or her telemedicine permit.”

“No physician shall supervise, collaborate or consult with an allied health care provider located in this state via telemedicine unless he or she possesses a full and unrestricted license to practice medicine in this state and satisfies and complies with the prerequisites and requirements specified by all applicable laws and rules.”

“No physician shall utilize telemedicine to provide care to a patient who is physically located outside of this state, unless the physician possesses lawful authority to do so by the licensing authority of the state in which the patient is located.”

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

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

Yes, 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 and maintains a physical practice location within this state; or
2. holds a telemedicine permit and executes an affirmation, as describe in § 408 of these rules, that he or she has an arrangement with one or more other physicians who maintain a physical practice location in this state to provide for referrals and follow-up care.”

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

“No person shall practice or attempt to practice medicine across state lines without first complying with the provisions of this Part and without being a holder of either an unrestricted license to practice medicine in Louisiana or a telemedicine license entitling him to practice medicine. . . .”



## LOUISIANA

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

#### [LA. REV. STAT. ANN. § 37:1271\(B\)\(1\).](#)

The following restrictions apply to applicants interested in obtaining a telemedicine license: “The board shall issue a telemedicine license to allow the practice of medicine across state lines to an applicant who holds a full and unrestricted license to practice medicine in another state or territory of the United States.”

“The physician licensed under this Section shall not open an office in this state, shall not meet with patients in this state, and shall not receive calls in this state from patients.”

“Any physician licensed to practice telemedicine in accordance with this Section shall be subject to the provisions of this Part, the jurisdiction of the board, applicable state law, and, with respect to providing medical services to state residents, to the jurisdiction of Louisiana courts.”

#### [LA. REV. STAT. ANN. § 37:1276.1.](#)

According to the Louisiana telemedicine regulations, the following limitations exist for consultations, “[n]o physician shall supervise, collaborate or consult with an allied health care provider located in this state via telemedicine unless he or she possesses a full and unrestricted license to practice medicine in this state and satisfies and complies with the prerequisites and requirements specified by all applicable laws and rules.”

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

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

The Louisiana statute governing the practice of telemedicine requires the following:

- a. “The physician practicing telemedicine shall use the same standard of care as if the healthcare services were provided in person.
- b. The physician practicing telemedicine shall not be required to conduct an in-person patient history or physical examination of the patient before engaging in a telemedicine encounter if the physician satisfies all of the following conditions:
  - 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. Maintains a physical practice location within the state of Louisiana or executes an affirmation with the board that the physician has an arrangement with another physician who maintains a physical practice location in Louisiana to provide for referrals and follow-up care which may be necessary.”

“A patient receiving telemedicine services may be in any location at the time that the telemedicine services are rendered. A physician practicing telemedicine may be in any location when providing telemedicine services to a patient.”

“A physician practicing telemedicine shall document the telemedicine services rendered in the patient’s medical records according to the same standard as that required for non-telemedicine services. Medical records including but not limited to video, audio, electronic, or other records generated as a result of providing telemedicine services shall be considered as confidential and shall be subject to all applicable state and federal laws and regulations relative to the privacy of health information.”



## LOUISIANA

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

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

According to Louisiana regulations, “physicians utilizing telemedicine shall establish a proper physician-patient relationship by:

- c. verifying the identity of the individual requesting treatment. Appropriate contact and identifying information shall be made part of the medical record;
- d. conducting an appropriate examination. The examination does not require an in-person visit if the technology is sufficient to provide the physician the pertinent clinical information reasonably necessary to practice at an acceptable level of skill and safety;
- e. establishing a diagnoses through the use of accepted medical practices e.g., history, mental status, appropriate diagnostic and laboratory testing;
- f. discussing the diagnoses and risks and benefits of various treatment options;
- g. insuring the availability for appropriate follow-up care; and
- h. creating and/or maintaining a medical record.”

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

According to Louisiana regulations, informed consent is required for telemedicine services:

“In addition to any informed consent and right to privacy and confidentiality that may be required by state or federal law or regulation, a physician shall insure that each patient to whom he or she provides medical services by telemedicine is:

1. informed of the relationship between the physician and patient and the respective role of any other health care provider with respect to management of the patient; and
2. notified that he or she may decline to receive medical services by telemedicine and may withdraw from such care at any time.”

#### [LA. ADMIN. CODE tit. 46:XLV, § 7511\(A\).](#)

Louisiana regulations also require certain disclosures in connection with providing telemedicine services:

“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.](#)



## LOUISIANA

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

Yes, with limited exceptions.

“Except as authorized by rule promulgated by the board, no physician practicing telemedicine pursuant to this Subsection shall prescribe any controlled dangerous substance prior to conducting an appropriate in-person patient history or physical examination of the patient as determined by the board.”

[LA. REV. STAT. ANN. § 37:1271\(B\)\(3\).](#)

“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 at a physical practice location in this state within the past year;
- 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.”

However, Louisiana regulations allow the board to grant an exception in an individual case that is supported by the physician’s written application which states how and why the physician proposed to deviate from the requirements. If the board grants an exception, it must be stated in writing and specify the manner and extent to which the physician is authorized to deviate from regulation.

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

### 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, Louisiana’s telemedicine regulations state that “[a]n online, electronic or written mail message, or a telephonic evaluation by questionnaire or otherwise, does not satisfy the standards of appropriate care. “

[LA. ADMIN. CODE tit. 46:XLV, § 7505\(B\).](#)

## PSYCHOLOGISTS

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

[Louisiana State Board of Examiners of Psychologists](#)



## LOUISIANA

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

The Louisiana State Board of Examiners of Psychologists has issued general guidelines regarding telepsychology, which describe the following potential limitations:

Any service that would require the psychologist to personally interact with, touch and/or examine the client may not be suitable for telepsychology. Examples may include but not be limited to the sensory-perceptual examinations of some neuropsychological assessments; and examination of the client for signs of movement disorders like the AIMS and Simpson-Angus exams. Psychologists must insure that the integrity of the examination procedure is not compromised through the use of telepsychology.

[Louisiana State Board of Examiners of Psychologists, Louisiana Telepsychology Guidelines \(Jan. 2015\).](#)

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

Yes, a license issued by the Louisiana State Board of Examiners of Psychologists is required.

According to the Louisiana State Board of Examiners of Psychologists, “[i]n order to practice telepsychology within the State of Louisiana, one must hold a current, valid license issued by the Louisiana State Board of Examiners or shall be a supervisee of a licensee being delegated telepsychology practices.”

[Louisiana State Board of Examiners of Psychologists, Op. No. 013 \(Telepsychology\) \(Apr. 2012\).](#)

The Louisiana State Board of Examiners of Psychologists has issued general guidelines regarding telepsychology, which provide, in part, that psychologists must be “aware of and in compliance with Louisiana psychology licensure laws and rules.”

[Louisiana State Board of Examiners of Psychologists, Louisiana Telepsychology Guidelines \(Jan. 2015\).](#)

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

The Louisiana State Board of Examiners of Psychologists has issued general guidelines regarding telepsychology, which outline the following responsibilities:

**Professional and Patient Identity and Location:** at the beginning of a Telepsychology service with a client, the following essential information shall be verified by the psychologist:

**Psychologist and Client Identity Verification:** The name and credentials of the professional and the name of the patient shall be verified.

**Provider and Patient Location Documentation:** The location where the patient will be receiving services shall be confirmed and documented by the psychologist. Documentation should at least include the date, location, duration and type of service. . . .

**Informed Consent:** A thorough informed consent at the start of all services shall be performed. The consent shall be conducted in real-time. Local, regional and national laws regarding verbal or written consent shall be followed. The consent should include all information contained in the consent process for in-person care including confidentiality



## LOUISIANA

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

and the limits to confidentiality in electronic communication; an agreed upon emergency plan, particularly in settings without clinical staff immediately available; the potential for technical failure, process by which patient information will be documented and stored; a protocol for contact between sessions; and conditions under which telepsychology services may be terminated and a referral made to in-person care. . . .

The guidelines also provide that “[p]sychologists are responsible for insuring that any services provided via electronic media are appropriate to be delivered through such media without affecting the relevant professional standards under which those services would be provided if delivered in person. It is recommended that the initial interview/assessment occur in-person. However, if conducted via telepsychology then the psychologist is responsible for meeting the same standard of care.”

[Louisiana State Board of Examiners of Psychologists, Louisiana Telepsychology Guidelines \(Jan. 2015\).](#)

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

No.

### 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, the Louisiana State Board of Examiners of Psychologists has issued general guidelines regarding the practice of telepsychology, which provide, in part, that “[t]he practice of psychology which includes assessment, diagnosis, intervention, consultation or information by psychologist using interactive telecommunication technology that enables a psychologist and a client, at two different locations separated by distance to interact via two-way video and audio transmissions simultaneously. . . .”

[Louisiana State Board of Examiners of Psychologists, Louisiana Telepsychology Guidelines \(Jan. 2015\).](#)

## SOCIAL WORKERS

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

[Louisiana State Board of Social Work Examiners](#)

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

None identified.



## LOUISIANA

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

Yes, a license issued by the Louisiana State Board of Social Work Examiners (LABSWE) is required.

“No individual shall practice social work in the state unless the individual holds a current, valid license, certificate, or registration issued by the board in accordance with this Chapter.”

[LA. REV. STAT. ANN. § 37: 2709.](#)

According to guidance on the LABSWE website, Louisiana licensure is required for social workers who provide therapy over the Internet or telephone.

[Louisiana State Board of Social Work Examiners, Consumer Information Regarding Distance Therapy.](#)

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

None identified.

However, according to guidance on the LABSWE website, patient consent is required:

According to Louisiana Social Work Practice Act, Rules, Standards and Procedures Rule 111 Section F, social workers should provide services to clients only in the context of a professional relationship with a valid informed consent. Social workers should use clear and understandable language to inform clients of the plan for services, relevant costs, reasonable alternatives, the client's right to refuse or withdraw consent, and the timeframe covered by the consent. Social workers shall provide clients with an opportunity to ask questions.

1. If the client does not have the capacity to provide consent, the social worker shall obtain consent for the services from the client's legal guardian or other authorized representative.
2. If the client, the legal guardian or authorized representative does not consent, the social worker shall, at the earliest opportunity, discuss with the client that a referral to other resources may be in the client's best interest.

[Louisiana State Board of Social Work Examiners, Consumer Information Regarding Distance Therapy.](#)

The LABSWE website also refers users to the [National Association of Social Workers' Standards and Association of Social Work Boards Standards for Technology and Social Work Practice](#) (2005).

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

No.

### 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.



## LOUISIANA

### COUNSELORS

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

[Marriage and Family Therapy Advisory Committee of the Louisiana Licensed Professional Counselors Board of Examiners](#)

#### What are the restrictions on the scope of practice for counselors 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)?

Yes, a license issued by the Louisiana Licensed Professional Counselors Board of Examiners, Marriage and Family Therapy Advisory Committee, is required:

*Internet Counseling*—mental health services delivered over the internet are rendered where the patient/client is situated. All counselors/therapists serving Louisiana residents via internet counseling must be fully licensed in Louisiana and must adhere to all applicable state laws relative to the practice of mental health counseling. R.S. 37:1111 prohibits any person from engaging in the practice of mental health counseling in Louisiana unless he/she possesses a full and valid license issued by the Louisiana LPC Board. No individuals holding a provisional license may engage in internet counseling.

[LA. ADMIN. CODE tit. 46:LX, § 503\(j\).](#)

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

Under the Louisiana counseling practice regulations, certain criteria apply when delivering distance counseling services:

“Technology-Assisted Services. When providing technology-assisted distance counseling services, licensees determine that clients are intellectually, emotionally, and physically capable of using the application and that the application is appropriate for the needs of clients.”

“Inappropriate Services. When technology-assisted distance counseling services are deemed inappropriate by the licensee or client, counselors consider delivering services face-to-face.”

“Access. Licensees provide reasonable access to computer applications when providing technology-assisted distance counseling services.”

“Technology and Informed Consent. As part of the process of establishing informed consent, licensees do the following:

- i. address issues related to the difficulty of maintaining the confidentiality of electronically transmitted communications;
- ii. inform clients of all colleagues, supervisors, and employees, such as informational technology (IT) administrators, who might have authorized or unauthorized access to electronic transmissions;
- iii. urge clients to be aware of all authorized or unauthorized users, including family members and fellow employees who have access to any technology clients may use in the counseling process;



## LOUISIANA

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

- iv. inform clients of pertinent legal rights and limitations governing the practice of a profession over state lines or international boundaries;
- v. use encrypted websites and email communications to help ensure confidentiality when possible;
- vi. when the use of encryption is not possible, licensees notify clients of this fact and limit electronic transmissions to general communications that are not client specific;
- vii. inform clients if and for how long archival storage of transaction records are maintained;
- viii. discuss the possibility of technology failure and alternate methods of service delivery;
- ix. inform clients of emergency procedures, such as calling 911 or a local crisis hotline, when the licensee is not available;
- x. discuss time zone differences, local customs, and cultural or language differences that might impact service delivery;
- xi. inform clients when technology-assisted distance counseling services are not covered by insurance.”

[LA. ADMIN. CODE tit. 46:LX, § 2103\(12\).](#)

### Does a counselor have prescribing authority?

#### If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?

No.

### 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?

Counselors are required to “inform clients of the benefits and limitations of using information technology applications in the counseling process and in business/billing procedures. Such technologies include, but are not limited to:

- i. computer hardware and software;
- ii. telephones;
- iii. the world wide web;
- iv. the internet;
- v. online assessment instruments; and
- vi. other communication devices.”

[LA. ADMIN. CODE tit. 46:LX, § 2103\(12\).](#)

## MARRIAGE/FAMILY THERAPISTS

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

[Marriage and Family Therapy Advisory Committee of the Louisiana Licensed Professional Counselors Board of Examiners](#)



## LOUISIANA

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

Yes, a license issued by the Louisiana Licensed Professional Counselors Board of Examiners/Marriage and Family Therapy Advisory Committee is required:

- A. No person shall be required to obtain a license as a licensed marriage and family therapist or a provisional license as a provisional licensed marriage and family therapist. As stated in R.S. 37:1122(A), no person shall use the title “licensed marriage and family therapist” or “provisional licensed marriage and family therapist[.]”
- B. Nothing in this Chapter shall prevent qualified members of other professional groups as defined by the board upon recommendation of the advisory committee including but not limited to clinical social workers, psychiatric nurses, psychologists, physicians, licensed professional counselors, or members of the clergy, including Christian science practitioners, from doing or advertising that they perform work of a marriage and family therapy nature consistent with the accepted standards of their respective professions. However, no such person shall use the title “licensed marriage and family therapist” or “provisional licensed marriage and family therapist[.]”

[LA. ADMIN. CODE tit. 46:LX, § 4501.](#)

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Louisiana State Board of Nursing](#)

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

None identified.



## LOUISIANA

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

Yes, a license issued by the Louisiana State Board of Nursing is required.

Under the Louisiana nurse practice regulations, APRNs are required to hold “a current, unencumbered, unrestricted and valid registered nurse license in Louisiana” (among other requirements).

[LA. ADMIN. CODE tit. 46:XLVII, § 4507.](#)

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

None identified.

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

Yes, with limited exceptions.

“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.”

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

Louisiana regulations provide that an APRN is authorized to issue prescriptions for controlled substances “only as permitted by a collaborating physician.”

[LA. ADMIN. CODE tit. 46:LIII, §2745.](#)

### 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.

## PRIVACY/CONFIDENTIALITY

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

Louisiana law provides that mental health inpatients may not be deprived of their right to privacy:

No patient in a treatment facility pursuant to this Chapter shall be deprived of any rights, benefits, or privileges guaranteed by law, the Constitution of the state of Louisiana, or the Constitution of the United States solely because of his status as a patient in a treatment facility. These rights, benefits, and privileges include, but are not limited to, civil service



## LOUISIANA

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

status; the right to vote; the right to privacy; rights relating to the granting, renewal, forfeiture, or denial of a license or permit for which the patient is otherwise eligible; and the right to enter contractual relationships and to manage property.

[LA. REV. STAT. ANN. § 28:171.](#)

A representative to a mental health patient may access the patient's medical records:

Except to the extent the right is limited by the advance directive or any federal law, a representative shall have the same right as the principal to receive information regarding both proposed and administered mental health treatment and to receive, review, and consent to disclosure of medical records relating to that treatment. This representative's right of access to the principal's mental health treatment information shall not waive any evidentiary privilege.

[LA. REV. STAT. ANN. § 28:227.](#)

If a physician must supply medical records for a Louisiana State Board of Medical Examiners proceeding, certain confidentiality requirements apply:

Notwithstanding any privilege of confidentiality recognized by law, no physician or health care institution with which such physician is affiliated shall, acting under any such privilege, fail or refuse to respond to a lawfully issued subpoena of the board for any medical information, testimony, records, data, reports or other documents, tangible items, or information relative to any patient treated by such physician under investigation; provided, however, that the identity of any patient identified in or by such records or information shall be maintained in confidence by the board and shall be deemed a privilege of confidentiality existing in favor of any such patient. For the purpose of maintaining such confidentiality of patient identity, the board shall cause any such medical records or the transcript of any such testimony to be altered so as to prevent the disclosure of the identity of the patient to whom such records or testimony relates.

[LA. REV. STAT. ANN. § 37:1278.1.](#)

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

Yes.

Louisiana telemedicine regulations require the following:

- A. 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;
  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.

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



## LOUISIANA

### MINORS

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

None identified.

### 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, § 7505\(C\)\(3\).](#)

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?

None identified.

### 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.

(1) Notwithstanding any provision of any policy or contract of insurance or health benefits issued, whenever such policy provides for payment, benefit, or reimbursement for any health care service, including but not limited to diagnostic testing, treatment, referral, or consultation, and such health care service is performed via transmitted electronic imaging or telemedicine, such a payment, benefit, or reimbursement under such policy or contract shall not be denied to a licensed physician conducting or participating in the transmission at the originating health care facility or terminus who is physically present with the individual who is the subject of such electronic imaging transmission and is contemporaneously communicating and interacting with a licensed physician at the receiving terminus of the transmission. . . .

(2) Any health care service proposed to be performed or performed via transmitted electronic imaging or telemedicine under this Subsection shall be subject to the applicable utilization review criteria and requirements of the insurer. Terminology in a health and accident insurance policy or contract that either discriminates against or prohibits such a method of transmitted electronic imaging or telemedicine shall be void as against public policy of providing the highest quality health care to the citizens of the state.

[LA. REV. STAT. ANN. § 22:1821\(F\).](#)



## LOUISIANA

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

Yes.

“The payment, benefit, or reimbursement to such a licensed physician at the originating facility or terminus shall not be less than seventy-five percent of the reasonable and customary amount of payment, benefit, or reimbursement which that licensed physician receives for an intermediate office visit.”

[LA. REV. STAT. ANN. § 22:1821\(F\)\(1\).](#)

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

Yes.

Telemedicine is the use of medical information exchanges from one site to another via electronic communications to improve a recipient’s health. Electronic communication means the use of interactive telecommunications equipment that includes, at a minimum, audio and video equipment permitting two-way, real time interactive communication between the recipient at the originating site, and the physician or practitioner at the distant site.

Distant site means the site at which the physician or other licensed practitioner delivering the service is located at the time the service is provided via telecommunications system.

Originating site means the location of the Medicaid recipient at the time the services being furnished via a telecommunications system occurs.

#### Reimbursement

Louisiana Medicaid only reimburses the distant site provider for services provided via telemedicine.

**NOTE: The distant site provider must be enrolled as a Louisiana Medicaid provider to receive reimbursement for covered services rendered to Louisiana Medicaid recipients.**

#### Billing

Medicaid covered services provided using telemedicine must be identified on claims submissions by appending the modifier ‘GT’ (via interactive audio and video telecommunications system) to the applicable procedure code. The recipient’s clinical record at both the originating and distant sites should reflect that the service was provided through the use of telemedicine.

[Louisiana Department of Health and Hospitals, Medicaid Services Manual, ch. 5 \(Professional Services\), § 5.1 \(issued Feb. 2012\).](#)



## LOUISIANA

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Louisiana uses the term “controlled dangerous substance” and defines it to mean “any substance defined, enumerated, or included in the federal or state statute or regulations, 21 CFR § 1308.11-15 or R.S. 40:964, or any substance which may hereafter be designated as a controlled dangerous substance by amendment or supplementation of such regulations or statute. The term shall not include distilled spirits, wine, malt beverages, or tobacco.”

[LA. REV. STAT. ANN. § 40:961.](#)

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

According to the Louisiana Uniform Controlled Dangerous Substance Act, the following requirements apply to prescriptions for controlled substances:

##### C. Manner of Issuance

1. All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued.
2. All prescriptions for controlled substances shall contain the following information:
  - a. full name and address of the patient;
  - b. drug name, strength and dosage form;
  - c. quantity of drug prescribed;
  - d. directions for use; and
  - e. name, address, telephone number and DEA registration number of the prescriber.
3. A prescription issued for a schedule III, IV, or V narcotic drug approved by FDA specifically for ‘detoxification treatment’ or ‘maintenance treatment’ must include the identification number issued by the DEA or a written notice stating that the practitioner is acting under the good faith exception of 21 CFR § 1301.28(d).
4. Where an oral order is not permitted, prescriptions shall be written with ink or indelible pencil or typewriter, and they shall be manually signed by the prescriber.
  - a. The prescriptions may be prepared by the secretary or agent for the signature of the prescriber, but the prescriber is responsible in case the prescription does not conform in all essential respects to the law and regulations.
  - b. A corresponding liability rests upon the pharmacist who dispenses a prescription not prepared in the form prescribed by DEA regulations or these rules.
5. A prescriber exempted from registration under 21 CFR § 1301.22(c) shall include on all such prescriptions issued by him the registration number of the hospital or other institution and the special internal code number assigned to him by the hospital or other institution, in lieu of the registration number of the practitioner required by this Section.



## LOUISIANA

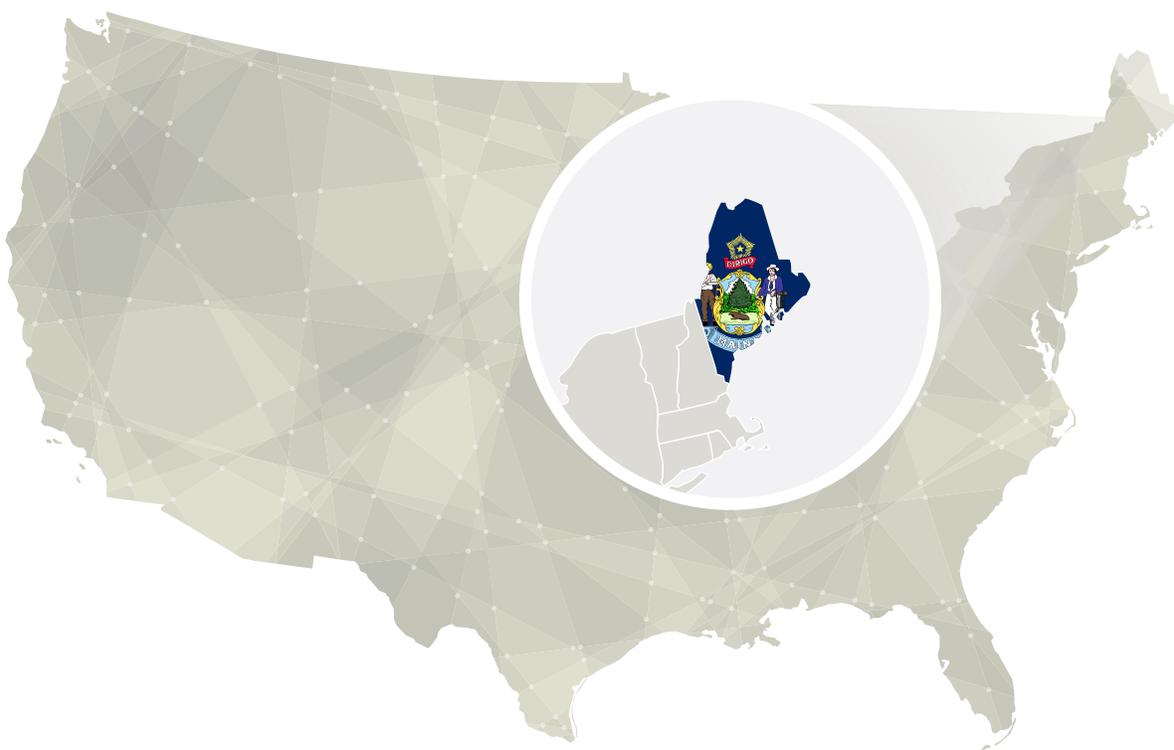
### What are the requirements/laws governing the prescribing of “controlled” substances”? CONTINUED

Each such written prescription shall have the name of the physician stamped, typed, or handprinted on it, as well as the signature of the physician.

6. An official exempted from registration under 21 CFR § 1301.22(c) shall include on all prescriptions issued by him his branch of service or agency and his service identification number, in lieu of the registration number of the practitioner required by this Section. Each such prescription shall have the name of the officer stamped, typed, or handprinted on it, as well as the signature of the officer.
7. Format Requirements. With the exception of medical orders written for patients in facilities licensed by the department, prescription forms shall adhere to the following requirements.
  - a. Written Prescriptions
    - i. The prescription form shall not be smaller than 4 inches by 5 inches, provided however, that forms used by pharmacists to record telephoned or transferred prescriptions shall be exempt from this requirement.
    - ii. The prescription form shall clearly indicate the authorized prescriber's name, licensure designation, address, telephone number, and DEA registration number. In the event multiple prescribers are identified on the prescription form, the prescriber's specific identity shall be clear and unambiguous. This identification may be indicated by any means, including but not limited to, a marked check box next to, or circling, the prescriber's printed name.
    - iii. In the event the authorized prescriber is an advanced practice registered nurse or a physician's assistant, the prescription form shall clearly indicate the prescriber's practice affiliation. The affiliated physician's name, address, and telephone number shall appear on the prescription form.
    - iv. The prescription form shall contain no more than four prescription drug or device orders. While nothing in these rules shall prohibit the pre-printing of any number of prescription drugs or devices on the prescription form, no prescription form issued by a prescriber shall identify more than four prescription drugs or devices to be dispensed.
    - v. For each prescription drug or device ordered on a prescription form, there shall be a pre-printed check box labeled “Dispense as Written,” or “DAW,” or both.

[LA. ADMIN. CODE. tit. 46:LIII, § 2745.](#)

# MAINE





## MAINE

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

The Maine Board of Licensure in Medicine regulations state that “telemedicine” means “the practice of medicine at a distance through the use of any electronic means.”

[02-373-1 ME. CODE R. § 1\(10\).](#)

The Maine Insurance Code includes a section regarding coverage for telemedicine services and defines “telemedicine” in one of the provisions as “the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment.” The provision also states that “[t]elemedicine’ does not include the use of audio-only telephone, facsimile machine or e-mail.”

[ME. REV. STAT. tit. 24-A, § 4316.](#)

The *MaineCare (Medicaid) Benefits Manual* provides that “telehealth” is interactive, visual, real-time telecommunication, and must be a medically appropriate means of provider-patient interaction.

[MaineCare Benefits Manual, General Administrative Policies and Procedures, 10-144 Ch. 101 – Ch. I § 1.06-2 \(last updated Jan. 1, 2014\).](#)

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

None identified.

## PSYCHIATRISTS

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

[Maine Board of Licensure in Medicine](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes, Maine licensure is required, with limited exceptions.

Maine Board of Licensure in Medicine policy provides that Maine licensure is required for the practice of telemedicine. “The only permissible exception to Maine licensure is a physician providing infrequent episodic care where there is an existing, on-going, established patient-physician relationship.” The Board notes that the practice of medicine occurs at the originating site (i.e., the location of the patient at the time of examination, diagnosis, or treatment).

[Maine Board of Licensure in Medicine, \*Telemedicine \(Guidelines\)\* \(Sept. 2014\).](#)

According to Maine Board of Licensure in Medicine regulations, “[f]or purposes of telemedicine, the practice of medicine occurs in the state where the patient is located at the time of examination, diagnosis or treatment.” However, “[a] non-resident physician does not need a license in [Maine] if he/she consults on an irregular basis with a physician or physicians licensed in this [Maine].”

[02-373-1 ME. CODE R. § 2\(4\).](#)



## MAINE

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

The Maine Board of Licensure in Medicine uses the definition of “patient-physician relationship” found in Opinion 10.015 of the AMA Code of Medical Ethics, 2012-2013 Edition.

Maine Board of Licensure in Medicine policy also states, “The telemedicine interaction must include all the recognized components of a patient-physician encounter required to establish a diagnosis and treatment. The interaction, treatment, recommendations and the issuance of prescriptions will be held to the same standards of appropriate practice as those in traditional face-to-face settings.”

Additionally, telemedicine practice must comply with the following standards:

- Telemedicine physicians providing primary care, other than acute episodic care, must have a face-to-face visit with their patients once a year.”
- “A Consent to Treatment is required for the practice of telemedicine. The consent should include:
  1. Patient and physician identification.
  2. Types of interactions/transmissions permissible such as prescriptions, refills, education, diagnosis, appointment scheduling.
  3. Security measures taken with use of telemedicine such as password protection, encryption and notification of potential risk to privacy and sensitive information even with such measures.
  4. Possibility of transmission failure or loss of information due to technical reasons.
  5. Information regarding emergency care and after-hours contact(s).”

[Maine Board of Licensure in Medicine, \*Telemedicine \(Guidelines\)\* \(Sept. 2014\).](#)

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

Yes.

Board policy provides that “prescribing, dispensing or furnishing a prescription medication or device to a person who is not an established patient and whom the physician has not personally examined may be unprofessional conduct subject to disciplinary action pursuant to 32 MRSA, §3282-A, 2, (f). This rule does not apply to admission orders for a newly hospitalized patient, prescribing for a patient of another physician for whom the prescriber is providing coverage, or continuing medication on a short-term basis prior to a new patient’s first appointment. Prescribing medications based solely on answers to a questionnaire or a consult over the Internet for a patient the physician has never met is inappropriate and unprofessional conduct.”

“Out of state physicians providing prescriptions to patients who are in Maine, with whom they do not have an established physician/patient relationship in the state where the physician is licensed, must be licensed in Maine.”

[Maine Board of Licensure in Medicine, \*Board Policy: Internet Prescribing\* \(2002\).](#)

Further, Maine Board of Licensure in Medicine policy dictates that a “physician prescribing via telemedicine must ensure that the clinical evaluation and rationale for the resulting prescription are appropriately documented and meet the same standard of care as that of a traditional patient-physician interaction. The prescribing of all controlled medications via telemedicine is expressly forbidden.”

[Maine Board of Licensure in Medicine, \*Telemedicine \(Guidelines\)\* \(Sept. 2014\).](#)



## MAINE

### 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?

Maine Board of Licensure in Medicine policy states that telemedicine practice must meet the following standards:

- “Electronic communication must include both audio and video or store and forward technology. Audio only, telephone conversation, e-mail/instant messaging or fax are not acceptable methods for the practice of medicine in the State of Maine with the following exceptions:
  1. Providers covering their own practice or that of another licensee where an established patient-physician relationship exists.
  2. Providers who initiate treatment of a patient/partner for sexually transmitted disease.
  3. Distant site provider who provides consultation to a licensee who has primary responsibility for the care and treatment of the patient.”
- With respect to technology considerations, the Board notes:
  1. “[Technology] must be HIPAA compliant.
  2. Audio and visual communications must be a real-time transmission.
  3. The technology must be of sufficient quality to provide the same information to the provider as if the encounter had occurred face-to-face.
  4. Telemedicine technologies must verify the identity and location of a requesting patient and disclose the provider’s identity and credentials.”

[Maine Board of Licensure in Medicine, \*Telemedicine \(Guidelines\)\* \(Sept. 2014\).](#)

## PSYCHOLOGISTS

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

[Maine Board of Examiners of Psychologists](#)

### What are the restrictions on the scope of practice for psychologists 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)?

Yes. Maine licensure is required, with limited exceptions.

Under Maine Board of Examiners of Psychologists regulations, “[a] psychologist not licensed by the board who provides ‘occasional services’ [(defined as ‘consultation within Maine by a psychologist licensed in another state or jurisdiction but not licensed by the board; . . . [the term] does not include psychotherapy’)] shall notify the board in writing each time the psychologist consults in Maine. Notification consists of the following items, on a form provided by the board:



## MAINE

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

- A. The nature of the engagement;
- B. Evidence of the psychologist's license to practice psychology in another state or jurisdiction;
- C. The name and contact information of the person or entity hiring the psychologist, including the supervisor of the psychologist;
- D. The practice location and length of the engagement;
- E. The psychologist's agreement to abide by the laws of Maine governing the practice of psychology and the board's rules during the performance of the engagement, including the provision of notice as required by this Section; and
- F. The psychologist's agreement to submit to the board's jurisdiction with respect to services performed as part of the engagement."

Further, "[a] psychologist licensed in another jurisdiction may ordinarily consult in Maine pursuant to this Section for no more than 10 days or parts thereof in a calendar year. Consultation in Maine beyond this 10-day period will only be permitted in exigent circumstances."

[02-415-9 ME. CODE R. § 3.](#)

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

None identified.

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

No.

### 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, under both the Maine Insurance Code and relevant MaineCare (Medicaid) provisions, the following are specifically excluded from telemedicine coverage: audio-only telephone, facsimile interactions, and electronic mail delivered services.

[ME. REV. STAT. tit. 24-A § 4316](#); [MaineCare Benefits Manual, General Administrative Policies and Procedures, 10-144 Ch. 101 – Ch. I § 1.06-2](#) (last updated Jan. 1, 2014).



## MAINE

### SOCIAL WORKERS

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

[Maine State Board of Social Worker Licensure](#)

**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)?**

None identified.

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

None identified.

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

No.

**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, under both the Maine Insurance Code and relevant MaineCare (Medicaid) provisions, the following are specifically excluded from telemedicine coverage: audio-only telephone, facsimile interactions, and electronic mail delivered services.

[ME. REV. STAT. tit. 24-A § 4316; MaineCare Benefits Manual, General Administrative Policies and Procedures, 10-144 Ch. 101 – Ch. I § 1.06-2 \(last updated Jan. 1, 2014\).](#)

### COUNSELORS

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

[Maine Board of Counseling Professionals Licensure](#)



## MAINE

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

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

None identified.

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

No.

**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, under both the Maine Insurance Code and relevant MaineCare (Medicaid) provisions, the following are specifically excluded from telemedicine coverage: audio-only telephone, facsimile interactions, and electronic mail delivered services.

[ME. REV. STAT. tit. 24-A § 4316](#); [MaineCare Benefits Manual, General Administrative Policies and Procedures, 10-144 Ch. 101 – Ch. I § 1.06-2](#) (last updated Jan. 1, 2014).

## MARRIAGE/FAMILY THERAPISTS

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

[Maine Board of Counseling Professionals Licensure](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

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

None identified.



## MAINE

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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, under both the Maine Insurance Code and relevant MaineCare (Medicaid) provisions, the following are specifically excluded from telemedicine coverage: audio-only telephone, facsimile interactions, and electronic mail delivered services.

[ME. REV. STAT. tit. 24-A § 4316](#); [MaineCare Benefits Manual, General Administrative Policies and Procedures, 10-144 Ch. 101 – Ch. I § 1.06-2](#) (last updated Jan. 1, 2014).

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Maine State Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

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

None identified.

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

Yes, provided applicable requirements are met (*see* [02-380-008 ME. CODE R. § 6](#)).

Maine State Board of Nursing regulations state that “prescribing or distributing drugs to individuals who are not clients of the certified nurse practitioner” constitutes unprofessional conduct. However, “client” is not precisely defined.

[02-380-8 ME. CODE R. § 6\(5\)\(B\)\(3\)](#).



## MAINE

### 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, under both the Maine Insurance Code and relevant MaineCare (Medicaid) provisions, the following are specifically excluded from telemedicine coverage: audio-only telephone, facsimile interactions, and electronic mail delivered services.

[ME. REV. STAT. tit. 24-A § 4316; MaineCare Benefits Manual, General Administrative Policies and Procedures, 10-144 Ch. 101 – Ch. I § 1.06-2 \(last updated Jan. 1, 2014\).](#)

### PRIVACY/CONFIDENTIALITY

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

Under Maine law, “a health care practitioner or facility may disclose, or when required by law must disclose, health care information without authorization to disclose under the circumstances stated in this subsection or as provided in subsection 11. Disclosure may be made without authorization as follows:

A. To another health care practitioner or facility for diagnosis, treatment or care of individuals or to complete the responsibilities of a health care practitioner or facility that provided diagnosis, treatment or care of individuals, as provided in this paragraph.

1. For a disclosure within the office, practice or organizational affiliate of the health care practitioner or facility, no authorization is required.
2. For a disclosure outside of the office, practice or organizational affiliate of the health care practitioner or facility, authorization is not required, except that in nonemergency circumstances authorization is required for health care information derived from mental health services provided by:
  - (a) A clinical nurse specialist licensed under the provisions of Title 32, chapter 31;
  - (b) A psychologist licensed under the provisions of Title 32, chapter 56;
  - (c) A social worker licensed under the provisions of Title 32, chapter 83;
  - (d) A counseling professional licensed under the provisions of Title 32, chapter 119; or
  - (e) A physician specializing in psychiatry licensed under the provisions of Title 32, chapter 36 or 48.

....

B. To an agent, employee, independent contractor or successor in interest of the health care practitioner or facility including a state-designated statewide health information exchange that makes health care information available electronically to health care practitioners and facilities or to a member of a quality assurance, utilization review or peer review team to the extent necessary to carry out the usual and customary activities relating to the delivery of health care and for the practitioner's or facility's lawful purposes in diagnosing, treating or caring for individuals, including billing and collection, risk management, quality assurance, utilization review and peer review.



## MAINE

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

C. To a family or household member unless expressly prohibited by the individual or a person acting pursuant to subsection 3-B[.]

D. To appropriate persons when a health care practitioner or facility that is providing or has provided diagnosis, treatment or care to the individual in good faith believes that disclosure is made to avert a serious threat to health or safety and meets the conditions, as applicable, described in 45 Code of Federal Regulations, Section 164.512(j) (2012). . . .” (See full text of statute for other applicable circumstances).

[ME. REV. STAT. tit. 22, §1711 C\(6\).](#)

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

None identified.

However, the Maine Board of Licensure in Medicine guidance discussed above requires technology to be HIPAA-compliant.

[Maine Board of Licensure in Medicine, \*Telemedicine \(Guidelines\)\* \(Sept. 2014\).](#)

## MINORS

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

None identified.

However, persons licensed to render psychological or social work services to a minor “for problems associated with the abuse of drugs or alcohol are under no obligation to obtain the consent of said minor’s parent or guardian or to inform such parent or guardian of such services. Nothing in this section shall be construed so as to prohibit the licensed person rendering such services from informing such parent or guardian. For purposes of this section “abuse of drugs” means the use of drugs solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.”

[ME. REV. STAT. tit. 32, § 3817; ME. REV. STAT. tit. 32, § 7004.](#)

## FOLLOW-UP CARE

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

The Maine Board of Licensure in Medicine’s guidelines regarding telemedicine state, “A plan of next steps to be taken by the patient must be provided to the patient by the physician providing telemedicine care when that care indicates the need for an acute care facility or hospital emergency department, including after-hours emergency treatment instructions.”

[Maine Board of Licensure in Medicine, \*Telemedicine \(Guidelines\)\* \(Sept. 2014\).](#)



## MAINE

**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?**

None identified.

### 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.

“A carrier offering a health plan in [Maine] may not deny coverage on the basis that the coverage is provided through telemedicine if the health care service would be covered were it provided through in-person consultation between the covered person and a health care provider. Coverage for health care services provided through telemedicine must be determined in a manner consistent with coverage for health care services provided through in-person consultation.” Note that the definition of “telemedicine” from the Insurance Code provided in the first row above is applicable here.

“A carrier may offer a health plan containing a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation.”

[ME. REV. STAT. tit. 24-A, § 4316.](#)

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

None identified.

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

Yes.

#### General Coverage Criteria:

- “Services provided via telehealth must utilize equipment that is capable of two-way video and audio (i.e., telephone, facsimile interactions and electronic mail delivered services are not reimbursable).
- “There must be a compelling benefit for the member in order for telehealth services to be appropriate. The benefit must be related to physical, social or geographic issues that make delivering the service in person difficult. It must not be for the convenience of the provider. The member’s record must contain documentation that the member has met one or more of the criteria listed below:
  - a. **Physical:** A member’s medical condition makes a face-to-face encounter that entails significant travel inadvisable or impossible.



## MAINE

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

- b. **Social:** The family or other support system does not support a member traveling a distance for a face-to-face encounter, or does not allow the member to take the time that travel will require.
- c. **Geographic:** There is a lack of medical/psychiatric/mental health expertise locally, limited transportation resources, or a long wait for such local care.”
- “Providers who want to provide and bill for services via telehealth must submit a specific description of the telehealth services and must be enrolled as a provider of the service that they wish to provide via telehealth. They may not be reimbursed for services provided via telehealth until they have received approval from the Department to do so.”
- “MaineCare reimburses for services delivered via telehealth by approved MaineCare providers only when those services are defined in the MaineCare Benefits Manual as a covered service.”

#### Provider Responsibilities:

“When requesting approval to provide services via telehealth, providers must submit the following information to MaineCare:

1. The names, provider numbers and licensure level of individual providers who utilize telehealth to provide services;
2. A list of the procedure codes that will be utilized;
3. A statement explaining the rationale for needing telehealth capabilities for the service(s) being proposed;
4. A statement explaining the specific criteria utilized in determining when telehealth services are more appropriate than face-to-face services;
5. A plan for quality assurance activities specifically related to patient satisfaction and outcomes related to telehealth service; and
6. Educational information that will be provided to the MaineCare member at the time of the member’s visit. This information should be written at a sixth grade comprehension level and at a minimum it should include the following information:
  - a. Description of the telehealth equipment and what to expect;
  - b. Explanation that the use of telehealth for this service is voluntary and that the same service is available in a face-to-face setting;
  - c. Explanation that the member is able to stop the telehealth visit at any time and request a face-to-face service;
  - d. Explanation that MaineCare will pay for transportation to a distant appointment if needed and;
  - e. HIPAA compliance information regarding the telehealth encounter.
7. Any additional information determined by the Department as necessary to protect members and ensure the integrity of the program. Documentation must be sent to the Medical Director MaineCare Services, 11 State House Station, Augusta, ME 04333-0011. MaineCare Services will review this justification and, if in agreement, will send the provider a letter of approval that must be kept on file.”

#### Reimbursement:

1. “MaineCare does not reimburse for any charge related to the technical aspect of the telehealth service or for personnel at the originating or receiving site, nor may a member be billed for such charge.
2. MaineCare will not reimburse for the use or upgrade of technology, transmission charges, and any charges for an attendant who instructs a patient or caretaker in the use of the equipment or supervises/monitors a patient during the telehealth encounter, or for consultations between professionals.
3. Providers must not bill for portions of a physical exam not actually performed by the rendering provider unless it is



## MAINE

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

possible to actually confirm the finding via the telehealth equipment (i.e., visually or via auscultatory equipment of appropriate sensitivity).

4. Reimbursement for telehealth is limited to those services already being provided by that provider in compliance with the MaineCare Benefits Manual.
5. 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 as for services delivered in person.
6. The GT (Interactive Telecommunication) modifier must be used when billing for services provided via telehealth.”

#### Documentation:

1. “Services delivered via telehealth are held to the same standard of documentation as non-telehealth services.
2. Each instance of telehealth service will require documentation as to why telehealth was utilized to deliver that service.”

[MaineCare Benefits Manual, General Administrative Policies and Procedures, 10-144 Ch. 101 – Ch. I § 1.06-2 \(last updated Jan. 1, 2014\).](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

“‘Controlled substance’ means a controlled substance included in schedules II, III or IV of 21 United States Code, Section 812 or 21 Code of Federal Regulations, Section 1308.”

[ME. REV. STAT. tit. 22, § 7246.](#)

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

“A controlled substance may not be pre-printed on a prescription blank.”

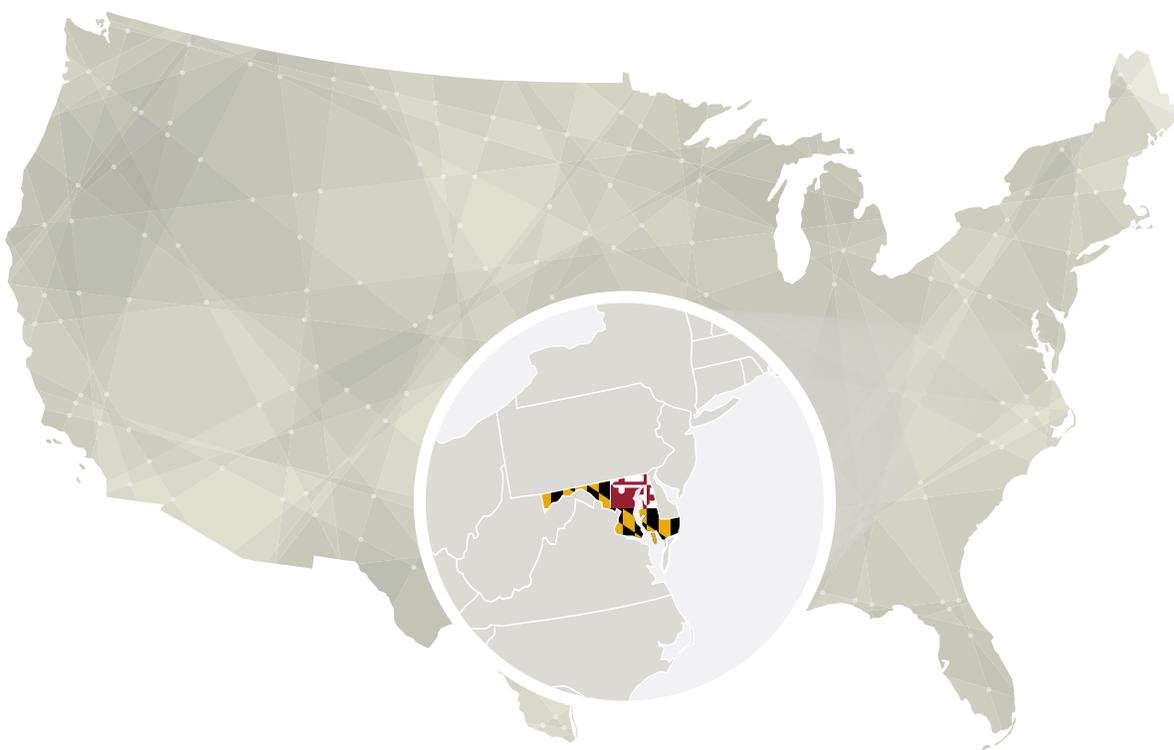
“No pharmacist may fill a written prescription drug order from a Maine health care provider for a Schedule II drug that does not comply with Chapter 1 of the rules of the Department of Public Safety, Maine Drug Enforcement Agency, entitled “Requirements for Written Prescriptions of Schedule II Drugs,” adopted May 30, 2002 and effective January 1, 2003. The board hereby incorporates Chapter 1 into this chapter by reference. A copy of the rule may be obtained from-

Department of Public Safety  
Maine Drug Enforcement Agency  
166 State House Station  
Augusta, ME 04333-0166

[NOTE: PL 2003, c. 326, amending 32 MRSA §13786-A(2)-(4), sets forth special requirements for filling a prescription drug order for a Schedule II drug written by an out-of-state practitioner.]”

[02-392-19 ME. CODE R. § 2.](#)

# MARYLAND





## MARYLAND

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

Under Maryland’s medical assistance statute, “telemedicine” is defined “as it relates to the delivery of health care services, the use of interactive audio, video, or other telecommunications or electronic technology:

- A. By a health care provider to deliver a health care service that is within the scope of practice of the health care provider at a site other than the site at which the patient is located; and
- B. That enables the patient to see and interact with the health care provider at the time the health care service is provided to the patient.”

According to the same statute, “[t]elemedicine’ does not include:

- A. An audio-only telephone conversation between a health care provider and a patient;
- B. An electronic mail message between a health care provider and a patient; or
- C. A facsimile transmission between a health care provider and a patient.”

[MD. CODE ANN., HEALTH-GEN. § 15-105.2](#)

Maryland’s medical practice regulations define “telemedicine” as “the practice of medicine from a distance in which intervention and treatment decisions and recommendations are based on clinical data, documents, and information transmitted through telecommunications systems.”

[MD. CODE REGS. 10.32.05.02.](#)

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

None identified.

## PSYCHIATRISTS

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

[Maryland Board of Physicians](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

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.](#)



## MARYLAND

### 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.”

[MD. CODE REGS. 10.32.05.05.](#)

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

Yes.

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

[MD. CODE REGS. 10.32.05.05.](#)

No telehealth-specific conditions/limits identified.

### 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, “[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.”

[MD. CODE REGS. 10.32.05.05.](#)

The Maryland mental hygiene regulations outline technical requirements for outpatient mental health centers or individual psychiatrists providing telemental health psychiatric consultation, evaluation, and ongoing treatment to Medicaid-eligible individuals in the Maryland Public Mental Health System.

[MD. CODE REGS. 10.21.30.](#)

## PSYCHOLOGISTS

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

[Maryland Board of Social Work Examiners](#)  
(Board website currently under construction)

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

None identified.



## MARYLAND

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

None identified.

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

None identified.

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

No.

**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.

### SOCIAL WORKERS

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

[Maryland Board of Social Work Examiners](#)

**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)?**

None identified.

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

None identified.

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

No.

**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.



## MARYLAND

### COUNSELORS

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

[Maryland Board of Professional Counselors and Therapists](#)  
(Board website currently under construction)

**What are the restrictions on the scope of practice for counselors 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 patient is located)?**

None identified.

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

None identified.

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

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

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

[Maryland Board of Professional Counselors and Therapists](#)  
(Board website currently under construction)

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

None identified.



## MARYLAND

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

None identified.

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

None identified.

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Maryland Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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 patient is located)?**

None identified.

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

None identified.

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

Yes.

No telehealth-specific conditions/limits identified.



## MARYLAND

**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.

### PRIVACY/CONFIDENTIALITY

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

Maryland statutes address the privacy of mental health records, including personal notes made by mental health providers.

[MD. CODE ANN., HEALTH-GEN. § 4-307](#)

Psychologists are expected to do the following:

1. Maintain confidentiality regarding information obtained from a client in the course of the psychologist's work;
2. Discuss the requirements and limitations of confidentiality at the beginning of the professional relationship or at the intake interview;
3. Safeguard information obtained in clinical or consulting relationships . . .;
4. Release mental health records or other confidential information only as permitted or required by law;
5. Obtain written permission for the electronic recording of interviews;
6. Avoid undue invasion of privacy by ensuring that written and oral reports contain only data relevant to the purpose of the evaluation;
7. Treat any assessment result or interpretation regarding an individual as confidential information; and
8. Obtain informed written consent before presenting in writing, lecture, or other public forum identifying information obtained during the course of professional work, and disguise this information when case reports or other confidential information are used as a basis for teaching or research.

[MD. CODE REGS. 10.36.05.08.](#)

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

Yes.

Maryland's medical practice regulations include standards related to the practice of telemedicine that require a physician to develop:

- a procedure to verify the identification of the individual transmitting a communication;
- a procedure to prevent access to data by unauthorized persons through password protection, encryption, or other means; and
- a policy on how soon an individual can expect a response from the physician to questions or other requests included in transmission.

[MD. CODE REGS. 10.32.05.04.](#)



## MARYLAND

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

None identified.

**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?**

None identified.

### 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.

Maryland's parity statute requires "insurers and nonprofit health service plans . . . [and] health maintenance organizations" to "provide coverage under a health insurance policy or contract for health care services" except where the service is "not a covered benefit under the health insurance policy or contract or . . . is not [provided] by a covered provider."

[MD. CODE ANN., INS. § 15-139.](#)

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

None identified.

However, an entity subject to the Maryland parity statute "may not exclude from coverage a health care service solely because it is provided through telemedicine and is not provided through an in-person consultation or contract between a health care provider and a patient."

[MD. CODE ANN., INS. § 15-139.](#)



## MARYLAND

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

Yes.

Maryland Medicaid will cover the following:

- A. Medically necessary services covered by the Maryland Medical Assistance Program rendered by an originating site provider that are distinct from the telemedicine services provided by a distant site provider;
- B. Medically necessary consultation services covered by the Maryland Medical Assistance Program rendered by an approved distance site provider that can be delivered using technology-assisted communication;
- C. An approved originating site for the transmission fee; and
- D. The professional fee for an approved distant site provider for initial telehealth consultation for services furnished before, during, and after communicating with the Medical Assistance participant presenting in a hospital emergency department. . . .

[MD. CODE REGS. 10.09.49.05.](#)

Telemental health services provided by outpatient mental health centers or individual psychiatrists are also covered for Medicaid-eligible individuals in the Maryland Public Mental Health System.

[MD. CODE REGS. 10.21.30.](#)

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Maryland statutes define “controlled dangerous substance” as:

- (i) “a drug or substance listed in Schedule I through Schedule V; or
- (ii) an immediate precursor to a drug or substance listed in Schedule I through Schedule V that:
  1. by regulation the Department designates as being the principal compound commonly used or produced primarily for use to manufacture a drug or substance listed in Schedule I through Schedule V;
  2. is an immediate chemical intermediary used or likely to be used to manufacture a drug or substance listed in Schedule I through Schedule V; and
  3. must be controlled to prevent or limit the manufacture of a drug or substance listed in Schedule I through Schedule V.”

[MD. CODE ANN., CRIM. LAW § 5-101.](#)



## MARYLAND

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

[MD. CODE ANN., CRIM. LAW §§ 5-101 to 5-1101](#); [MD. CODE REGS. 10.19.03](#).

“A prescription for a controlled substance may be issued only by an individual practitioner who is:

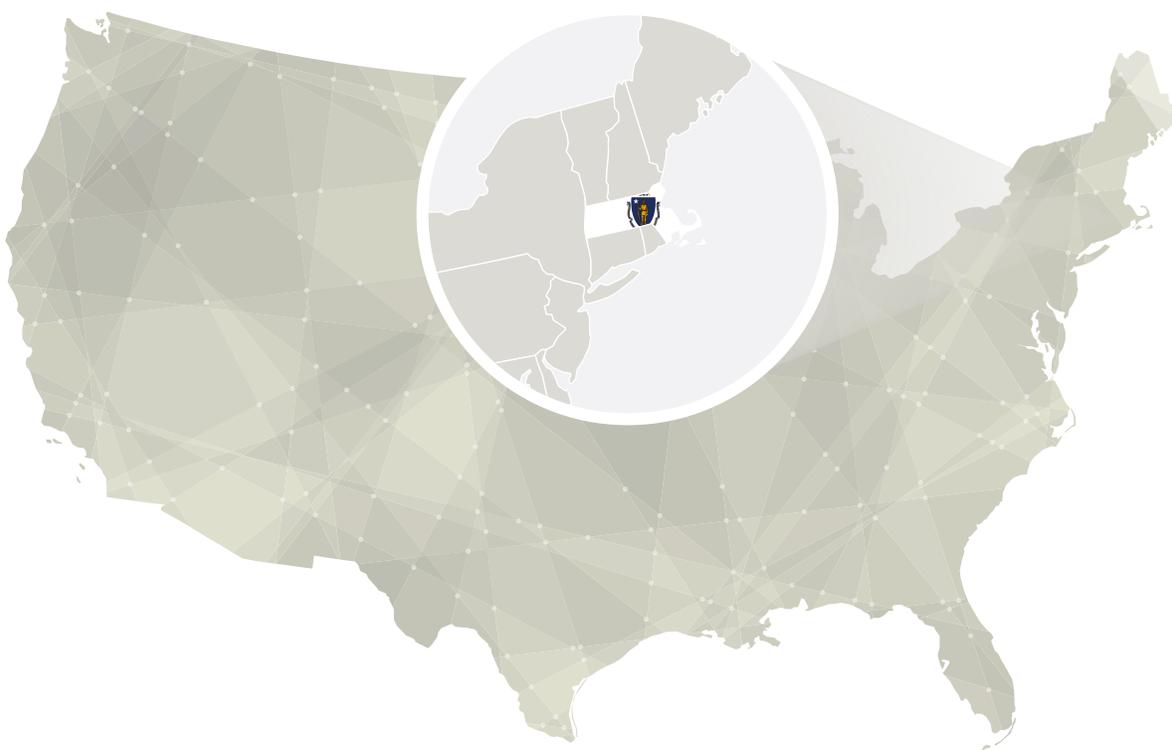
- (iii) Authorized to prescribe controlled dangerous substances in the State of Maryland, in which the practitioner is licensed to practice the practitioner’s profession; and
- (iv) Either registered or exempted from registration pursuant to 21 C.F.R. § 1301.22(c) and 21 C.F.R. § 1301.23.”

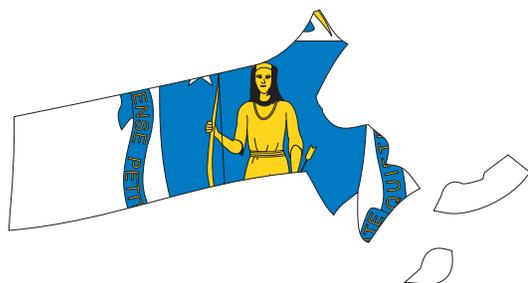
[MD. CODE REGS. 10.19.03.07\(B\)\(1\)](#).

All prescriptions for controlled dangerous substances shall be dated as of, and signed on, 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 practitioner may sign a prescription in the same manner as the practitioner would sign a check or legal document (for example, J.H. Smith or John H. Smith). When an oral order is not permitted, prescriptions shall be written with ink, indelible pencil, typewriter, or computer 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 these regulations.

[MD. CODE REGS. 10.19.03.07\(C\)\(1\)](#).

# MASSACHUSETTS





## MASSACHUSETTS

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

According to Massachusetts’s medical practice regulations, “telemedicine” is the provision of services to a patient by a physician from a distance by electronic communication in order to improve patient care, treatment, or services.

[243 MASS. CODE REGS. § 2.01.](#)

Massachusetts insurance law defines the term “telemedicine” with respect to its provisions on coverage for telemedicine services as follows: “‘Telemedicine’ as it pertains to the delivery of health care services, shall mean the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment. ‘Telemedicine’ shall not include the use of audio-only telephone, facsimile machine or e-mail.”

[MASS. GEN. LAWS ch. 175, § 47BB.](#)

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

None identified.

## PSYCHIATRISTS

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

[M.A. Board of Registration in Medicine](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes. Massachusetts licensure is required, with limited exceptions.

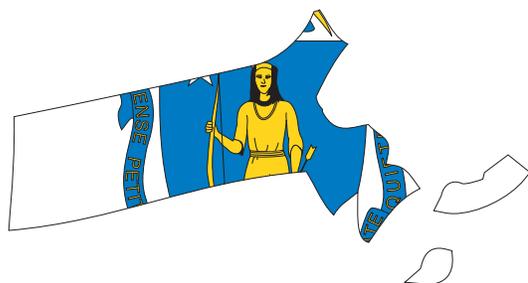
While licensure generally appears to be required, the medical practice act’s licensure requirement does not apply to “a physician or surgeon resident in another state who is a legal practitioner therein, when in actual consultation with a legal practitioner of the commonwealth . . . .”

[MASS. GEN. LAWS ch. 112, § 7.](#)

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

Although no specific criteria were identified for establishing this relationship for telemedicine practice generally, it appears that the requirements set forth below related to establishing a physician-patient relationship for the purpose of Internet prescribing may be generally applicable. These criteria include “taking an adequate medical history and conducting an appropriate physical and/or mental status examination and recording the results.”

[M.A. Board of Registration in Medicine, Board Policy 03-06: Internet Prescribing \(2003\).](#)



## MASSACHUSETTS

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

Yes.

According to Board policy, for a prescription to be valid in Massachusetts, it must “be issued by a practitioner in the usual course of his [or her] professional practice, there must be a physician-patient relationship that is for the purpose of maintaining the patient’s well-being and the physician must conform to certain minimum norms and standards for the care of patients, such as taking an adequate medical history and conducting an appropriate physical and/or mental status examination and recording the results.”

Issuance of a prescription, by any means, including the Internet or other electronic process that does not meet these requirements is unlawful.

[M.A. Board of Registration in Medicine, Board Policy 03-06: Internet Prescribing \(2003\).](#)

### 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 do not appear to be specified.

## PSYCHOLOGISTS

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

[M.A. Board of Registration in Psychology](#)

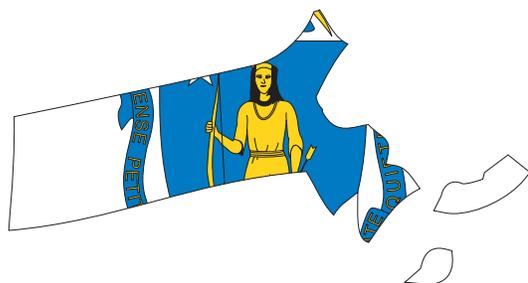
### What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

None identified.

The Board has noted that it has “not come to any conclusions about the appropriateness of providing psychological services electronically.” The Board has also expressed some concerns with telemedicine services, stating,

Specific challenges [of telemedicine] include, but are not limited to, verifying the identity of the client, determining if a client is a minor, explaining to clients the procedure for contacting the psychologist when he or she is off-line, discussing the possibility of technology failure and alternative modes of communication if that failure occurs, exploring how to cope with potential misunderstandings when visual cues do not exist, identifying an appropriately trained professional who can provide local assistance (including crisis intervention) if needed, informing internet clients of encryption methods used to help ensure the security of communications, informing clients of the potential hazards of unsecured communication on the internet, telling internet clients whether session data are being preserved (and if so, in what manner and for how long), and determining and communicating procedures regarding the release of client information received through the internet with other electronic sources.

[M.A. Board of Registration in Psychology, Board Policies & Guidelines: Provision of Services Via Electronic Means \(2005\)\(rev. Oct. 2015\).](#)



## 50-State Survey of Telemental/Telebehavioral Health

**MASSACHUSETTS**

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

Yes. Massachusetts's licensure is required, with limited exceptions.

The Board's position is that the practice of psychology occurs where the patient/client who is receiving the services is physically located at the time of service. Thus, in order for a psychologist to provide psychological services to a patient in Massachusetts, that individual must be licensed by the Massachusetts Board of Registration of Psychologists or be exempt.

[M.A. Board of Registration in Psychology, Board Policies & Guidelines: Provision of Services Via Electronic Means \(2005\)\(rev. Oct. 2015\).](#)

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

The Board has stated that it believes "that any psychologist should recognize that as he or she moves away from direct contact with clientele, the psychologist incrementally loses much of the richness of interaction which, as any psychologist knows, comes with traditional face-to-face contact in an individual session with a client. For this reason, a psychologist should seriously consider conducting the initial evaluation of a client in-person before beginning electronic provision of services, and holding sessions in-person periodically thereafter."

[M.A. Board of Registration in Psychology, Board Policies & Guidelines: Provision of Services Via Electronic Means \(2005\)\(rev. Oct. 2015\).](#)

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

No.

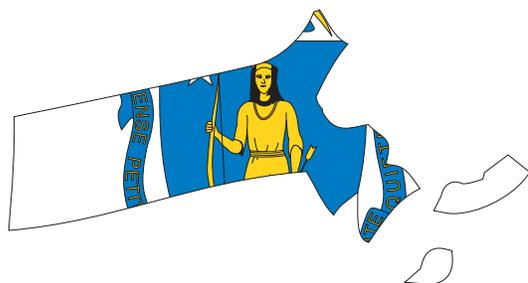
**What are the acceptable modalities (e.g., telephone, video) for the practice of psychology via telemedicine/telehealth that meet the standard of care for the state?**

Acceptable modalities do not appear to be specified.

**SOCIAL WORKERS**

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

[M.A. Board of Registration of Social Workers](#)



## MASSACHUSETTS

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

None identified.

However, the Board has issued a Practice Advisory stating the following:

- “Social workers must recognize that as he or she moves away from direct contact with clients, the social worker loses the value of interacting with the client which comes with traditional face-to-face practice setting. While e-practice is not encouraged by the Board, the Board recognizes that in certain circumstances e-practice can be used as a complement to an existing face-to-face therapeutic relationship OR when warranted by extenuating circumstances.”
- Treating clients through e-practice obligates licensees to do the following, among other things: carefully consider and address diverse issues such as structuring the relationship, obtaining informed consent, maintaining confidentiality, determining the basis for professional judgments, determining boundaries of competence, and maintaining security.

[M.A. Board of Registration of Social Workers, Practice Advisory Regarding Social Work Services by Electronic Means \(2013\)](#)

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

Yes. Massachusetts licensure is required, with limited exceptions.

According to the Board’s Practice Advisory, to provide social work services in Massachusetts, social workers must be licensed by the Board or be exempt. In determining whether social work services are being rendered in Massachusetts, the Board considers licensure with the Board necessary when the client is located in Massachusetts. If a Massachusetts licensee provides social work services via e-practice to an out-of-state client, the Board recommends that the licensee contact the social worker licensing board in the state in which the client is located to determine whether such practice is permitted in that state.

[M.A. Board of Registration of Social Workers, Practice Advisory Regarding Social Work Services by Electronic Means \(2013\)](#).

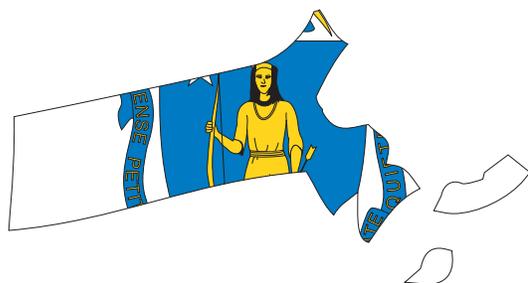
### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

No specific criteria are identified, but according to the Board’s Practice Advisory, all of the statutes and regulations that govern traditional social work are still applicable when treating a client via e-practice. The Board, therefore, recommends that licensees conduct the initial evaluation of a client in-person before treating a client via e-practice and carry out subsequent sessions in person periodically thereafter to best service the needs of their clients.

[M.A. Board of Registration of Social Workers, Practice Advisory Regarding Social Work Services by Electronic Means \(2013\)](#).

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

No.



## MASSACHUSETTS

### 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's Practice Advisory defines "e-practice" as services provided by electronic means of communication, which includes, but is not limited to, telephone calls, Internet video conferencing, texting, and electronic mail.

[M.A. Board of Registration of Social Workers,  
Practice Advisory Regarding Social Work Services by Electronic Means \(2013\).](#)

## COUNSELORS

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

[M.A. Board of Registration of Allied Mental Health and Human Services Professionals](#)

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

None identified. However, all Board policies and regulations will apply to these services.

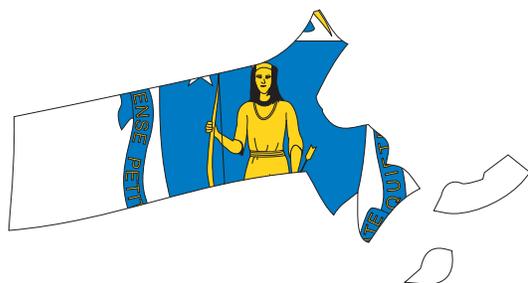
[M.A. Board of Registration of Allied Mental Health and Human Services Professionals,  
Policy on Distance, Online, and Other Electronic-Assisted Counseling \(2007\).](#)

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

Yes, Massachusetts licensure is required, with limited exceptions.

The Board's "Policy on Distance, Online, and Other Electronic-Assisted Counseling" provides the following:

- "Distance delivery of counseling and therapy is considered to occur in two locations: where the client is located and where the clinician is located."
- "Therefore, the provision of counseling and/or therapy to individuals located within Massachusetts at the time services are occurring, are considered to fall under the jurisdiction of the Board, regardless of the location of the provider."
- "Mental health professionals licensed by any jurisdiction other than Massachusetts, and not licensed by any Massachusetts Board or not eligible for an exception to Massachusetts licensure, are considered unlicensed by this Board for practice in Massachusetts."
- "Mental health professionals licensed by other jurisdictions who wish to provide services to clients within Massachusetts, are encouraged to apply for Massachusetts licensure."
- "Licensees are encouraged to carefully review the way in which the structure of their relationships with clients will be impacted by distance-therapy or counseling to ensure compliance with Board regulations and standards of practice."
- "The following are some areas of practice that licensees should carefully consider:



## MASSACHUSETTS

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

- Informed consent
- Confidentiality
- Basis for making clinical judgments
- Areas of competence
- Avoiding harm
- Fees and financial arrangements
- Advertising
- Abandonment of clients
- Handling requests for obtaining clinical records”

M.A. Board of Registration of Allied Mental Health and Human Services Professionals, Policy on Distance, Online, and Other Electronic-Assisted Counseling (2007).

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

The criteria do not appear to be specified.

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

No.

**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?**

Acceptable modalities do not appear to be specified.

### MARRIAGE/FAMILY THERAPISTS

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

M.A. Board of Registration of Allied Mental Health and Human Services Professionals

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

None identified. However, all Board policies and regulations will apply to these services. Note that all of the answers provided above for counselors will apply to marriage/family therapists, as both sets of professionals are regulated by the same Board.

M.A. Board of Registration of Allied Mental Health and Human Services Professionals, Policy on Distance, Online, and Other Electronic-Assisted Counseling (2007).



## MASSACHUSETTS

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

Yes, Massachusetts licensure is required, with limited exceptions.

The Board's "Policy on Distance, Online, and Other Electronic-Assisted Counseling" provides the following:

- "Distance delivery of counseling and therapy is considered to occur in two locations: where the client is located and where the clinician is located."
- "Therefore, the provision of counseling and/or therapy to individuals located within Massachusetts at the time services are occurring, are considered to fall under the jurisdiction of the Board, regardless of the location of the provider."
- "Mental health professionals licensed by any jurisdiction other than Massachusetts, and not licensed by any Massachusetts Board or not eligible for an exception to Massachusetts licensure, are considered unlicensed by this Board for practice in Massachusetts."
- "Mental health professionals licensed by other jurisdictions who wish to provide services to clients within Massachusetts, are encouraged to apply for Massachusetts licensure."
- "Licensees are encouraged to carefully review the way in which the structure of their relationships with clients will be impacted by distance-therapy or counseling to ensure compliance with Board regulations and standards of practice."
- "The following are some areas of practice that licensees should carefully consider:
  - a. Informed consent
  - b. Confidentiality
  - c. Basis for making clinical judgments
  - d. Areas of competence
  - e. Avoiding harm
  - f. Fees and financial arrangements
  - g. Advertising
  - h. Abandonment of clients
  - i. Handling requests for obtaining clinical records"

[M.A. Board of Registration of Allied Mental Health and Human Services Professionals, Policy on Distance, Online, and Other Electronic-Assisted Counseling \(2007\).](#)

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

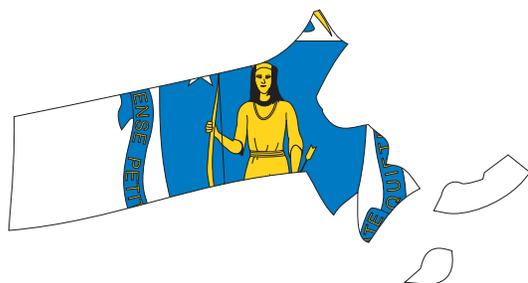
The criteria do not appear to be specified.

### Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

### 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 criteria do not appear to be specified.



## MASSACHUSETTS

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[M.A. Board of Registration in Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

Yes. Massachusetts licensure appears to be required.

Nurses are only permitted to engage in the practice of nursing in Massachusetts if they are licensed in Massachusetts. Board regulations define the “practice of nursing” to include “the provision of a nursing service by a nurse physically located outside Massachusetts to a person physically located within Massachusetts using telecommunications technology.”

Also regulations note that a nurse licensed by the Board who, while physically located in Massachusetts, provides a nursing service using telecommunications technology to a person physically located outside Massachusetts, will also be governed by the licensure and practice laws and regulations of the state or jurisdiction in which the recipient of the service is located.

[244 MASS. CODE REGS. § 9.02.](#)

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

The criteria do not appear to be specified.

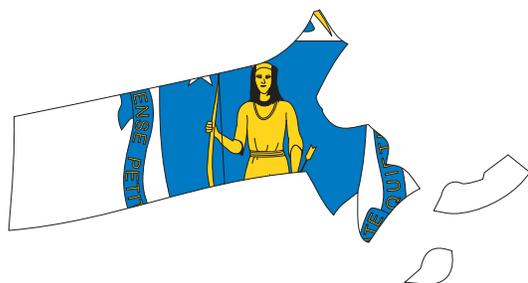
**Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes, an APRN has prescribing authority, provided that he or she registers with the Massachusetts Department of Public Health Drug Control Program (DCP) and meets the applicable requirements (*see* [MASS. GEN. LAWS ch. 112, § 80E](#)). No telemedicine-specific prescribing requirements for APRNs were identified.

**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 “telecommunication technology,” as used in the section above regarding licensure requirements for APRNs, means “those modalities used in the practice of nursing over distance, whether intrastate or interstate. Such modalities include, but are not limited to: telephones, facsimile, cellular phones, video phones, computers, e-mail, voice mail, CD-ROM, electronic bulletin boards, audio tapes, audio-visual tapes, teleconferencing, video conferencing, online services, World Wide Web, Internet, interactive television, real-time camera, and still imaging.”

[244 MASS. CODE REGS. § 9.02.](#)



## MASSACHUSETTS

### PRIVACY/CONFIDENTIALITY

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

No psychologist, colleague, agent or employee of any psychologist, whether professional, clerical, academic or therapeutic, or a graduate of, or student enrolled in, a doctoral degree program in psychology at a recognized educational institution as that term is defined in section 118, who is working under the supervision of a licensed psychologist, shall disclose any information acquired or revealed in the course of or in connection with the performance of the psychologist's professional services, including the fact, circumstances, findings or records of such services, except under the following circumstances: (a) pursuant to the provisions of section twenty B of chapter two hundred and thirty-three or any other law; (b) upon express, written consent of the patient; (c) upon the need to disclose information which protects the rights and safety of others [see text of statute for specific circumstances] . . . .

[MASS. GEN. LAWS ch. 112, § 129A.](#)

No social worker, colleague, agent or employee of any social worker, whether professional, clerical, academic or therapeutic, shall disclose any information acquired or revealed in the course of or in connection with the performance of the social worker's professional services, including the fact, circumstances, findings or records of such services, except under the following circumstances:

- a. pursuant to the provisions of this section and section one hundred and thirty-five B or any other law;
- b. upon express, written consent of such client or, in the event of a client incompetent to consent, of a guardian appointed to act in the client's behalf;
- c. upon the need to disclose that information which is necessary to protect the safety of the client or others . . . . [See text of statute for specific circumstances].

[MASS. GEN. LAWS ch. 112, § 135A](#); *see also* [258 MASS. CODE REGS. § 22.03](#)

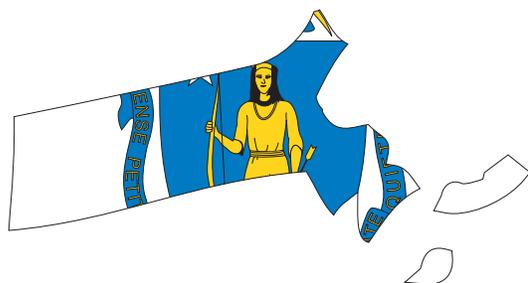
(regarding confidentiality of records between social workers and clients).

With limited exceptions, "[a]ny communication between an allied mental health or human services professional and a client shall be deemed to be confidential." However, this "shall not be construed to prevent third party reimbursers from inspecting and copying, in the ordinary course of determining eligibility for or entitlement to benefits, any and all records relating to diagnosis, treatment or other services provided to any person, including a minor or incompetent, for which coverage, benefit or reimbursement is claimed, so long as the policy or certificate under which the claim is made provides that such access to such records is permitted."

[MASS. GEN. LAWS ch. 112, § 172](#); *see also* [262 MASS. CODE REGS. § 8.02](#) (regarding confidentiality of communications between any Allied Mental Health and Human Services Professional and the individual(s) to whom the licensee has rendered professional services).

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

The Board of Registration of Social Workers recommends the following to licensees who are practicing via telemedicine: licensees are advised to review M.G.L. c. 112, s. 130-137, 258 CMR s. 22.00 (*Confidentiality of Client Communications and Records*), and the National Association of Social Workers (NASW) Code of Ethics (Ethical Standards 1.07(i) and (m) addressing assuring confidentiality of communications with clients). The NASW *Code of Ethics* can be found [by clicking here](#).



## MASSACHUSETTS

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

[M.A. Board of Registration of Social Workers, Practice Advisory Regarding Social Work Services by Electronic Means \(2013\).](#)

The Board of Registration of Allied Mental Health and Human Services Professionals expects licensees to manage the following challenges associated with telepractice:

- full disclosure with regard to potential risks to confidentiality, including computer hacking and/or archiving of communications, and
- full disclosure of the limits to confidentiality in the jurisdictions where the client and clinician are located.

[M.A. Board of Registration of Allied Mental Health and Human Services Professionals, Policy on Distance, Online, and Other Electronic-Assisted Counseling \(2007\).](#)

### MINORS

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

No telemedicine-specific requirements related to minors were identified.

However, the Board of Registration of Allied Mental Health and Human Services Professionals expects licensees to obtain consent to provide services by electronic means from a guardian for minors.

[M.A. Board of Registration of Allied Mental Health and Human Services Professionals, Policy on Distance, Online, and Other Electronic-Assisted Counseling \(2007\).](#)

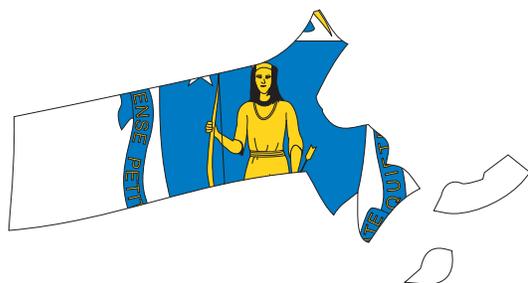
### FOLLOW-UP CARE

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

While it does not appear to be a requirement, the Boards of Registration in both Psychology and Social Work have recommended that practitioners consider holding in-person sessions following the provision of telemedicine services (discussed above).

In addition, the Board of Registration of Allied Mental Health and Human Services Professionals expects licensees to redirect and/or refer clients for whom electronic services will not be adequate or appropriate, provide screening and local referral for critical and urgent problems, and have procedures in place for contacting the clinician when he or she is offline.

[M.A. Board of Registration of Allied Mental Health and Human Services Professionals, Policy on Distance, Online, and Other Electronic-Assisted Counseling \(2007\).](#)



## MASSACHUSETTS

**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?**

None identified.

### 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?**

No. However, Massachusetts law provides that private insurers may reimburse for telemedicine services. The relevant provisions of this law are below:

- “An insurer may limit coverage of telemedicine services to those health care providers in a telemedicine network approved by the insurer.”
- “A contract that provides coverage for services under this section may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation[.]”
- “Coverage for health care services must be consistent with coverage for health care services provided through in-person consultation.”

[MASS. GEN. LAWS ch. 175, § 47BB.](#)

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

None identified.

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

No. MassHealth (Medicaid) does not currently reimburse for telemedicine services.



## MASSACHUSETTS

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

“Controlled substance” means “a drug, substance, controlled substance analogue or immediate precursor in any schedule or class referred to in this chapter.”

[MASS. GEN. LAWS ch. 94C, § 1](#); see [MASS. GEN. LAWS ch. 94C, § 31](#) (defines the five classes of controlled substances).

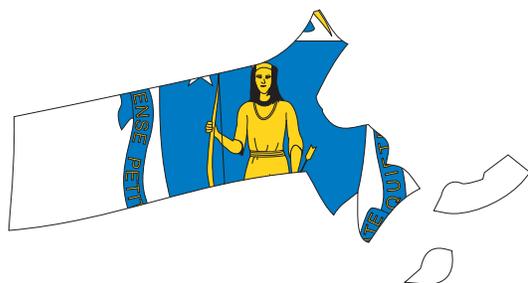
#### What are the requirements/laws governing the prescribing of “controlled” substances”?

- “A prescription for a controlled substance may be issued only by a practitioner who is:
  - (1) authorized to prescribe controlled substances; and
  - (2) registered pursuant to the provisions of this chapter.”
- “An oral prescription issued by a practitioner may be communicated to a pharmacist by an expressly authorized employee or agent of the practitioner.”
- “Practitioners who prescribe controlled substances, except veterinarians, shall be required, as a prerequisite to obtaining or renewing their professional license, to complete appropriate training relative to: (i) effective pain management; (ii) identification of patients at high risk for substance abuse; and (iii) counseling patients about the side effects, addictive nature and proper storage and disposal of prescription medications.”

[MASS. GEN. LAWS ch. 94C, § 18.](#)

- a. A prescription for a controlled substance to be valid shall be issued for a legitimate medical purpose by a practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances shall be upon the prescribing practitioner, but a corresponding responsibility shall rest with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section one and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided by sections thirty-two, thirty-two A, thirty-two B, thirty-two C, thirty-two D, thirty-two E, thirty-two F, thirty-two G, and thirty-two H, as applicable.
- b. No prescription shall be issued in order for a practitioner to obtain controlled substances for supplying the practitioner for the purpose of general dispensing to patients.
- c. Unless permitted by federal law, a prescription shall not be issued for the dispensing of drugs or controlled substances as defined in section thirty-eight of chapter one hundred and twenty-three, listed in any schedule to a drug dependent person for the purpose of continuing his dependence upon such drugs, in the course of conducting an authorized clinical investigation pursuant to an addict rehabilitation program.
- d. (Naloxone or other opioid antagonist may lawfully be prescribed and dispensed to a person at risk of experiencing an opiate-related overdose or a family member, friend or other person in a position to assist a person at risk of experiencing an opiate-related overdose. For purposes of this chapter and chapter 112, any such prescription shall be regarded as being issued for a legitimate medical purpose in the usual course of professional practice.

[MASS. GEN. LAWS ch. 94C, § 19.](#)



## MASSACHUSETTS

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

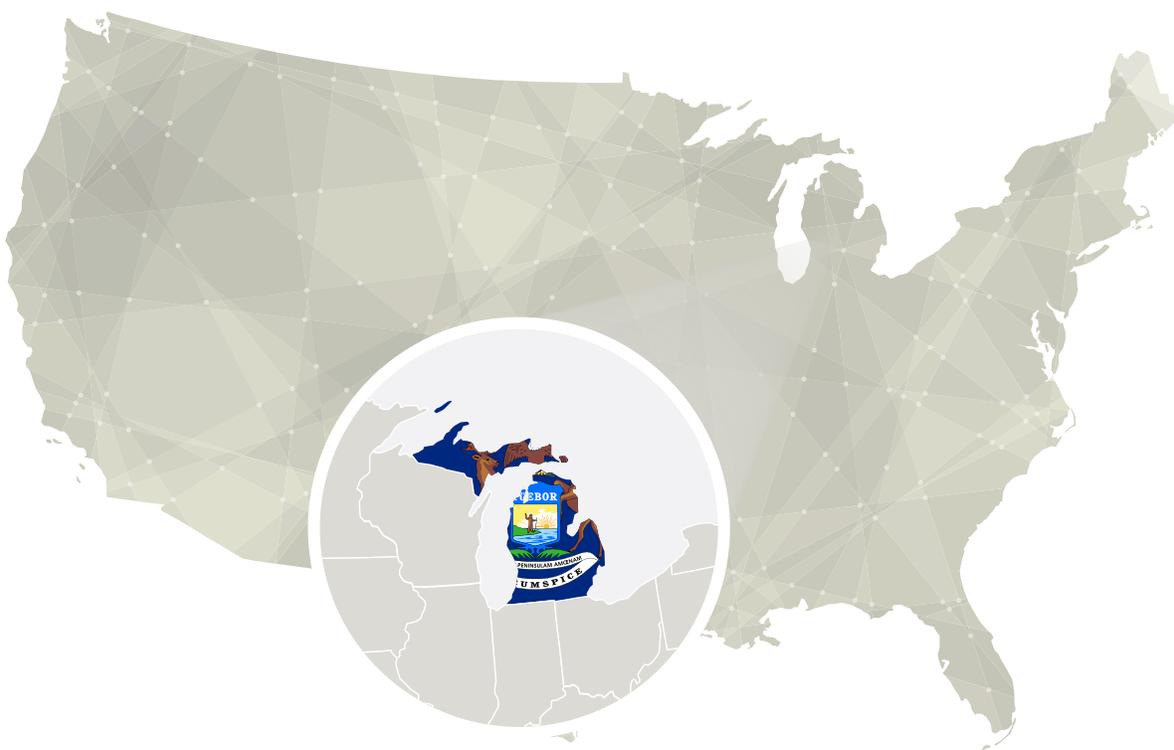
“A practitioner who dispenses a controlled substance by issuing a written prescription shall state on the prescription the name, address and registration number of the practitioner, the date of delivery of the prescription, the name, dosage and strength per dosage unit of the controlled substance, the name and address of the patient unless it is a veterinary prescription, the directions for use and any cautionary statements required, and a statement indicating the number of times to be refilled.”

[MASS. GEN. LAWS ch. 94C, § 22.](#)

- “Unless otherwise prohibited by law, a prescription shall be: (1) written in ink, indelible pencil or by other means on a tamper resistant form consistent with federal requirements for Medicaid; or (2) transmitted electronically; and (3) signed by the prescriber. A prescription may be transmitted electronically with the electronic signature and electronic instructions of the prescriber, and shall be transmitted directly from the prescriber to the pharmacy designated by the patient without alteration of the prescription information, except that third-party intermediaries may act as conduits to route the prescription from the prescriber to the pharmacy.”
- “A written prescription for a controlled substance in Schedule II shall become invalid 30 days after the date of issuance. A written prescription for a controlled substance in Schedule II shall not be refilled and shall be kept in a separate file.”
- “In regard to a controlled substance in Schedule II or III, no prescription shall be filled for more than a thirty-day supply of such substance upon any single filling; provided, however, that with regard to dextro amphetamine sulphate and methyl phenidate hydrochloride, a prescription may be filled for up to a sixty-day supply of such substance upon any single filling if said substance is being used for the treatment of minimal brain dysfunction or narcolepsy; provided further, that subject to regulations of the department and the board of pharmacy, prescriptions for implantable infusion pumps consisting of Schedule II or Schedule III controlled substances may be filled for a maximum of 90 days.”
- “No prescription for a controlled substance shall be refilled unless the original prescription provides for such refilling and unless the number of refills has been specified in said prescription.”

[MASS. GEN. LAWS ch. 94C, § 23](#); see also [105 MASS. CODE REGS. § 700.003](#)  
(defining an APRN’s prescriptive authority with respect to controlled substances).

# MICHIGAN





## MICHIGAN

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

Michigan’s parity statute defines “telemedicine” as “the use of electronic media to link patients with health care professionals in different locations.”

[MICH. COMP. LAWS § 500.3476.](#)

Michigan’s Medical Practice Act and corresponding regulations do not define the terms “telemedicine” or “telehealth.”

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

None identified.

## PSYCHIATRISTS

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

[Michigan Board of Medicine](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Michigan’s parity statute requires that “telemedicine services shall be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located.”

[MICH. COMP. LAWS § 500.3476.](#)

*Note: The term “health care professional” is not defined in the statute. However, the statute states the following: “Telemedicine services shall be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located.”*

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

None identified.

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

Yes.

No telehealth-specific conditions/limits identified.



## 50-State Survey of Telemental/Telebehavioral Health

**MICHIGAN**

**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?**

Michigan's parity statute requires that "the health care professional must be able to examine the patient via real-time, interactive audio or video, or both, telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided."

[MICH. COMP. LAWS § 500.3476.](#)

**PSYCHOLOGISTS**

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

[Michigan Board of Psychology](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

Michigan's parity statute requires that "telemedicine services shall be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located."

[MICH. COMP. LAWS § 500.3476.](#)

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

None identified.

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

No.

**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?**

Michigan's parity statute requires that "the health care professional must be able to examine the patient via real-time, interactive audio or video, or both, telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided."

[MICH. COMP. LAWS § 500.3476.](#)



## MICHIGAN

### SOCIAL WORKERS

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

[Michigan Board of Social Work](#)

**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)?**

Michigan's parity statute requires that "telemedicine services shall be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located."

[MICH. COMP. LAWS § 500.3476.](#)

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

None identified.

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

No.

**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?**

Michigan's parity statute requires that "the health care professional must be able to examine the patient via real-time, interactive audio or video, or both, telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided."

[MICH. COMP. LAWS § 500.3476.](#)

### COUNSELORS

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

[Michigan Board of Counseling](#)



## 50-State Survey of Telemental/Telebehavioral Health

**MICHIGAN****What are the restrictions on the scope of practice for counselors 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)?**

Michigan's parity statute requires that "telemedicine services shall be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located."

[MICH. COMP. LAWS § 500.3476.](#)

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

None identified.

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

No.

**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?**

Michigan's parity statute requires that "the health care professional must be able to examine the patient via real-time, interactive audio or video, or both, telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided."

[MICH. COMP. LAWS § 500.3476.](#)

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

[Michigan Board of Marriage and Family Therapy](#)

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

None identified.



## MICHIGAN

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

Michigan's parity statute requires that "telemedicine services shall be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located."

[MICH. COMP. LAWS § 500.3476.](#)

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

None identified.

### Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

### 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?

Michigan's parity statute requires that "the health care professional must be able to examine the patient via real-time, interactive audio or video, or both, telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided."

[MICH. COMP. LAWS § 500.3476.](#)

## ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Michigan Board of Nursing](#)

### What are the restrictions on the scope of practice for APRNs 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)?

Michigan's parity statute requires that "telemedicine services shall be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located."

[MICH. COMP. LAWS § 500.3476.](#)



## MICHIGAN

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

None identified.

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

Yes.

No telehealth-specific conditions/limits identified.

**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?**

Michigan's parity statute requires that "the health care professional must be able to examine the patient via real-time, interactive audio or video, or both, telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided."

[MICH. COMP. LAWS § 500.3476.](#)

### PRIVACY/CONFIDENTIALITY

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

None identified.

### MINORS

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

None identified.

### FOLLOW-UP CARE

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

None identified.



## MICHIGAN

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?

None identified.

### 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.

Michigan's parity statute provides that "an expense-incurred hospital, medical, or surgical group or individual policy or certificate delivered, issued for delivery, or renewed in this state and a health maintenance organization group or individual contract shall not require face-to-face contact between a health care professional and a patient for services appropriately provided through telemedicine, as determined by the insurer or health maintenance organization."

[MICH. COMP. LAWS § 500.3476.](#)

Michigan's Nonprofit Health Care Corporation Reform Act also includes a parity provision, prohibiting group or non-group health care corporation certificates from requiring face-to-face contact.

[MICH. COMP. LAWS § 550.1401k.](#)

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

None identified.

However, the Michigan parity statute provides that "telemedicine services are subject to all terms and conditions of the policy, certificate, or contract agreed upon between the policy, certificate, or contract holder and the insurer or health maintenance organization, including, but not limited to, required copayments, coinsurances, deductibles, and approved amounts."

[MICH. COMP. LAWS § 500.3476.](#)

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

Yes.

The Michigan Medicaid fee-for-service program provides coverage and reimbursement for the following services "provided via telemedicine:



## MICHIGAN

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

- ESRD [End-Stage Renal Dialysis]-related services
- Behavior change intervention
- Behavior Health and/or Substance Abuse Treatment
- Education Services, Telehealth
- Inpatient consultations
- Nursing facility subsequent care
- Office or other outpatient consultations
- Office or other outpatient services
- Psychiatric diagnostic procedures
- Subsequent hospital care
- Training service [for] Diabetes”

[MICH. COMP. LAWS § 400.105d](#); [Michigan Department of Community Health, Medicaid Provider Manual, pp. 1575-77 \(Jan. 1, 2016\)](#)

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Michigan regulations define “controlled substance” as “a drug, substance, or immediate precursor included in schedules 1 to 5 of [part 72](#).”

[MICH. COMP. LAWS § 333.7104](#).

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

“A person who manufactures, distributes, prescribes, or dispenses a controlled substance in this state or who proposes to engage in the manufacture, distribution, prescribing, or dispensing of a controlled substance in this state shall obtain a license issued by the administrator in accordance with the rules. A person who has been issued a controlled substances license by the administrator under this article and a license under article 15 shall renew the controlled substances license concurrently with the renewal of the license issued under article 15, and for an equal number of years.”

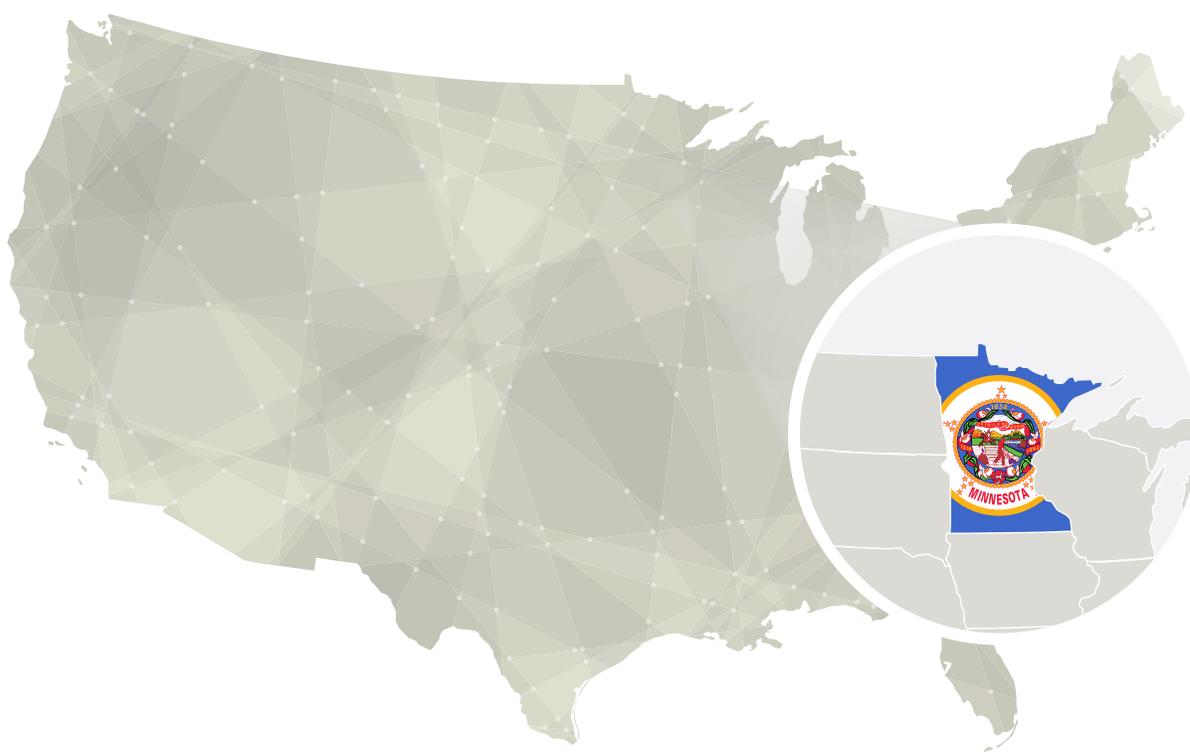
[MICH. COMP. LAWS § 333.7303](#).

“Before prescribing or dispensing a controlled substance to a patient, a licensed prescriber shall ask the patient about other controlled substances the patient may be using. The prescriber shall record the patient’s response in the patient’s medical or clinical record.”

“A licensed prescriber who dispenses controlled substances shall maintain all of the following records separately from other prescription records.”

[MICH. COMP. LAWS § 333.7303a](#).

# MINNESOTA





## 50-State Survey of Telemental/Telebehavioral Health

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

According to the Minnesota Medical Practice Act, “telemedicine” is “the practice of medicine as defined [in section 147.081, subdivision 3](#), where the physician is not in the physical presence of the patient.”

[MINN. STAT. § 147.032](#)

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

None identified.

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

[Minnesota Board of Medical Practice](#)

**What are the restrictions on the scope of practice for psychiatrists 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)?**

Minnesota’s Interstate Practice of Telemedicine statute provides that “[a] physician not licensed to practice medicine in [the] state may provide medical services to a patient located in [the] state through interstate telemedicine if the following conditions are met:

1. the physician is licensed without restriction to practice medicine in the state from which the physician provides telemedicine services;
2. the physician has not had a license to practice medicine revoked or restricted in any state or jurisdiction;
3. the physician does not open an office in this state, does not meet with patients in this state, and does not receive calls in this state from patients; and
4. the physician annually registers with the board, on a form provided by the board.”

“To register with the board, a physician must:

1. state the physician’s intention to provide interstate telemedicine services in this state;
2. provide complete information on:
  - (i) All states and jurisdictions in which the physician is currently licensed;
  - (ii) Any states or jurisdictions in which the physician was previously licensed;



## MINNESOTA

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

- (iii) Any negative licensing actions taken previously against the physician in any state or jurisdiction; and
- (iv) Other information requested by the board; and

3. pay a registration fee of \$75 annually and an initial application fee of \$100.”

“A physician registered to provide interstate telemedicine services under this section must immediately notify the board of restrictions placed on the physician’s license to practice in any state or jurisdiction.”

“In registering to provide interstate telemedicine services to state residents under this section, a physician agrees to be subject to state laws, the state judicial system, and the board with respect to providing medical services to state residents.”

The statute also provides exemptions from registration “if:

1. the services are provided in response to an emergency medical condition. For the purposes of this section, an emergency medical condition means a condition, including emergency labor and delivery, that manifests itself by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in placing the patient’s health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any body organ or part;
2. the services are provided on an irregular or infrequent basis. For the purposes of this section, a person provides services on an irregular or infrequent basis if the person provides the services less than once a month or provides the services to fewer than ten patients annually; or
3. the physician provides interstate telemedicine services in this state in consultation with a physician licensed in this state and the Minnesota physician retains ultimate authority over the diagnosis and care of the patient.”

[MINN. STAT. § 147.032.](#)

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

None identified.

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

Yes.

[MINN. STAT. § 152.12.](#)

No telehealth-specific conditions/limits identified.



## MINNESOTA

**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.

### PSYCHOLOGISTS

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

[Minnesota Board of Psychology](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, the Minnesota Board of Psychology does grant guest licenses:

If a nonresident of the state of Minnesota, who is not seeking licensure in this state, and who has been issued a license, certificate, or registration by another jurisdiction to practice psychology at the doctoral level, wishes to practice in Minnesota for more than seven calendar days, the person shall apply to the board for guest licensure, provided that the psychologist's practice in Minnesota is limited to no more than nine consecutive months per calendar year. Application under this section shall be made no less than 30 days prior to the expected date of practice in Minnesota and shall be subject to approval by the board or its designee.

[MINN. STAT. § 148.916.](#)

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

None identified.

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

No.

**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.



## 50-State Survey of Telemental/Telebehavioral Health

**MINNESOTA****SOCIAL WORKERS**

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

[Minnesota Board of Social Work](#)

**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)?**

None identified.

However, Minnesota's Social Work Practice Act requires a certain number of hours of "direct clinical client contact" for licensure. "Direct clinical client contact" means "in-person or electronic media interaction with a client, including client systems and service providers, related to the client's mental and emotional functioning, differential diagnosis, and treatment."

[MINN. STAT. § 148E.010.](#)

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

None identified.

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

No.

**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.

**COUNSELORS**

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

[Minnesota Board of Behavioral Health and Therapy](#)



## MINNESOTA

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

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

None identified.

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

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

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

[Minnesota Board of Marriage and Family Therapy](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

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

None identified.



## MINNESOTA

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

No.

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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Minnesota Board of Nursing](#)

What are the restrictions on the scope of practice for APRNs 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)?

None identified.

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

None identified.

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

Yes.

[MINN. STAT. § 152.12.](#)

No telehealth-specific conditions/limits identified.

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.



## 50-State Survey of Telemental/Telebehavioral Health

**MINNESOTA****PRIVACY/CONFIDENTIALITY**

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

Minnesota's Interstate Practice of Telemedicine statute provides that any "physician who provides interstate telemedicine services to a patient located in [the] state must comply" with the Minnesota Health Records Act.

[MINN. STAT. § 147.032.](#)

**MINORS**

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

None identified.

**FOLLOW-UP CARE**

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

None identified.

**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?**

None identified.

**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.

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

None identified.



## MINNESOTA

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

Minnesota's fee-for-service Medicaid program covers telemedicine consultations.

"A communication between licensed health care providers, or a licensed health care provider and a patient that consists solely of a telephone conversation, 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, which facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care."

"As a condition of payment, a licensed health care provider must document each occurrence of a health service provided by telemedicine to a medical assistance enrollee. . . ."

"Coverage is limited to three telemedicine consultations per recipient per calendar week."

"Telemedicine consultations shall be paid at the full allowable rate."

[MINN. STAT. § 256B.0625.](#)

## CONTROLLED SUBSTANCES

### How are "controlled substances" defined by the state?

Minnesota statutes define "controlled substance" as "a drug, substance, or immediate precursor in Schedules I through V of section 152.02. The term shall not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco."

[MINN. STAT. § 152.01.](#)

### What are the requirements/laws governing the prescribing of "controlled" substances?"

A licensed doctor of medicine, a doctor of osteopathy, duly licensed to practice medicine, a doctor of dental surgery, a doctor of dental medicine, a licensed doctor of podiatry, a licensed advanced practice registered nurse, or a licensed doctor of optometry limited to Schedules IV and V, and in the course of professional practice only, may prescribe, administer, and dispense a controlled substance included in Schedules II through V of section 152.02, may cause the same to be administered by a nurse, an intern or an assistant under the direction and supervision of the doctor, and may cause a person who is an appropriately certified and licensed health care professional to prescribe and administer the same within the expressed legal scope of the person's practice as defined in Minnesota Statutes."

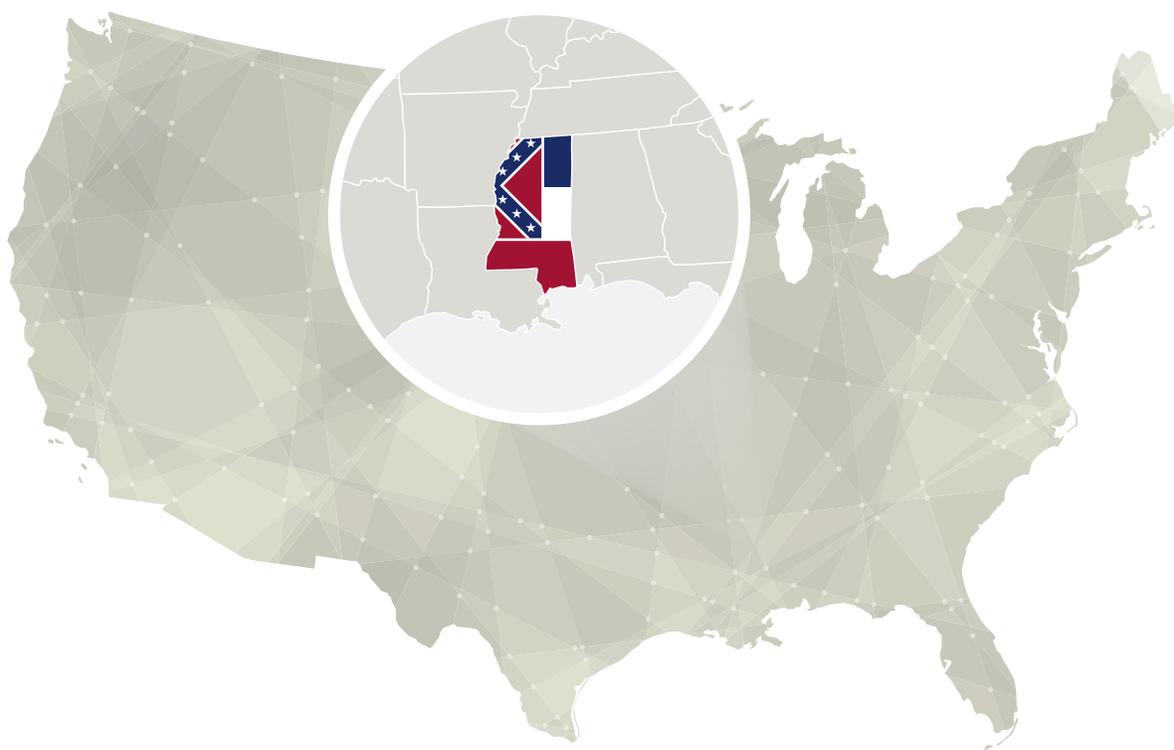
[MINN. STAT. § 152.12.](#)

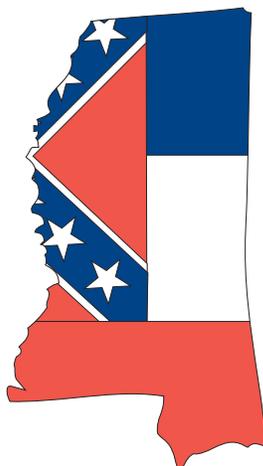
"A written prescription or an oral prescription reduced to writing, when issued for a controlled substance in Schedule II, III, IV, or V, is void unless:

1. it is written in ink and contains the name and address of the person for whose use it is intended;
2. it states the amount of the controlled substance to be compounded or dispensed, with directions for its use;
3. if a written prescription, it contains the handwritten signature, address, and federal registry number of the prescriber and a designation of the branch of the healing art pursued by the prescriber; and if an oral prescription, the name and address of the prescriber and a designation of the prescriber's branch of the healing art; and
4. it shows the date when signed by the prescriber, or the date of acceptance in the pharmacy if an oral prescription."

[MINN. STAT. § 152.11.](#)

# MISSISSIPPI





## 50-State Survey of Telemental/Telebehavioral Health

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

Mississippi’s medical practice regulations define “telemedicine” to mean the practice of medicine using electronic communication, information technology, or other means between a physician in one location and a patient in another location with or without an intervening health care provider. This definition does not include the practice of medicine through postal or courier services.

[30-2635 MISS. CODE R. § 5.1.](#)

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

None identified.

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

[Mississippi Board of Medical Licensure](#)

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

“Physicians using telemedicine technologies to provide medical 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 same information to the physician as if the exam had been performed face to face. Other exams may be appropriate if a licensed health care provider is on site with the patient and is able to provide various physical findings that the physician needs to complete an adequate assessment. However a simple questionnaire without an appropriate exam is in violation of this policy and may subject the physician to discipline by the Board.”

[30-2635 MISS. CODE R. § 5.5.](#)

“The physician using telemedicine should obtain the patient’s informed consent before providing care via telemedicine technology. In addition to information relative to treatment, the patient should be informed of the risk and benefits of being treated via a telemedicine network including how to receive follow-up care or assistance in the event of an adverse reaction to treatment or if there is a telemedicine equipment failure.”

[30-2635 MISS. CODE R. § 5.3.](#)

“No physician practicing teleemergency medicine shall be authorized to function in a collaborative/consultative role as outlined in Part 2630, Chapter 1 unless his or her practice location is a Level One Hospital Trauma Center that is able to provide continuous twenty-four hour coverage and has an existing air ambulance system in place. Coverage will be authorized only for those emergency departments of licensed hospitals who have an average daily census of thirty (30) or fewer acute care/medical surgical occupied beds as defined by their Medicare Cost Report.”

[30-2635 MISS. CODE R. § 5.7.](#)



## MISSISSIPPI

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

Yes.

“The practice of medicine is deemed to occur in the location of the patient. Therefore only physicians holding a valid Mississippi license are allowed to practice telemedicine in Mississippi. However, a valid Mississippi license is not required where the evaluation, treatment and/or medicine given to be rendered by a physician outside of Mississippi is requested by a physician duly licensed to practice medicine in Mississippi, and the physician who has requested such evaluation, treatment and/or medical opinion has already established a doctor/patient relationship with the patient to be evaluated and/or treated.”

[30-2635 MISS. CODE R. § 5.2; MISS. CODE § 73-25-34.](#)

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

“In order to practice telemedicine a valid ‘physician patient relationship’ must be established. The elements of this valid relationship are:

- A. verify that the person requesting the medical treatment is in fact who they claim to be;
- B. conducting an appropriate examination of the patient that meets the applicable standard of care;
- C. establishing a diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- D. discussing with the patient the diagnosis, risks and benefits of various treatment options to obtain informed consent;
- E. insuring the availability of appropriate follow-up care; and
- F. maintaining a complete medical record available to patient and other treating health care providers.”

[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?

Yes.

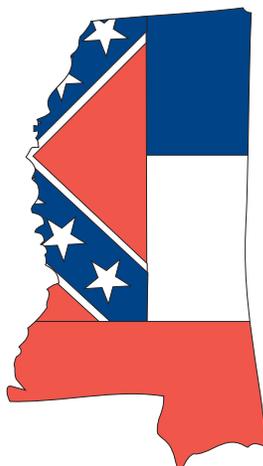
The Missouri medical practice regulations contain provisions governing Internet prescribing:

Essential components of proper prescribing and legitimate medical practice require that the physician obtains a thorough medical history and conducts an appropriate physical and/or mental examination before prescribing any medication for the first time.

Exceptions to this circumstance that would be permissible may include, but not be limited to: admission orders for a newly hospitalized patient, prescribing for a patient of another physician for whom the prescriber is taking call, or continuing medication on a short-term basis for a new patient prior to the patient’s first appointment. Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice.

Prescribing drugs to individuals that the physician has never met and based solely on answers to a set of questions, as is found in Internet or toll-free telephone prescribing, is inappropriate, fails to meet a basic standard of care that potentially places patient’s health at risk and could constitute unprofessional conduct punishable by disciplinary action.

[30-2635 MISS. CODE R. § 7.1.](#)



## MISSISSIPPI

### 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 practice of medicine through postal or courier services.”

[30-2635 MISS. CODE R. § 5.1.](#)

The Mississippi parity statute includes a definition of “Telemedicine” that requires “real time consultation and does not include the use of audio-only telephone, e-mail, or facsimile.”

[MISS. CODE § 83-9-351.](#)

### PSYCHOLOGISTS

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

[Mississippi Board of Psychology](#)

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

“Psychological services are provided to individuals, families, groups, systems, organizations, and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is received for services rendered and without regard to the means of service provision (e.g., face-to-face, telephone, Internet, or telehealth).”

[MISS. CODE § 73-31-3.](#)

*(Note: This specific section of the Mississippi Code is scheduled to be repealed, effective July 1, 2018).*

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

Yes.

“Applicants awaiting licensure in Mississippi are prohibited from the practice of psychology without a temporary license issued by the board. For the purposes of this subsection, the practice of psychology shall be construed without regard to the means of service provision (e.g., face-to-face, telephone, Internet, telehealth).”

[MISS. CODE § 73-31-14.](#)

*(Note: This specific section of the Mississippi Code is scheduled to be repealed, effective July 1, 2018).*

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

None identified.



## MISSISSIPPI

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

No.

**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.

### SOCIAL WORKERS

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

[Mississippi Board of Examiners for Social Workers and Marriage and Family Therapists](#)

**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)?**

None identified.

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

None identified.

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

No.

**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.



## MISSISSIPPI

### COUNSELORS

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

[Mississippi State Board of Examiners for Licensed Professional Counselors](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

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

None identified.

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

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

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

[Mississippi Board of Examiners for Social Workers and Marriage and Family Therapists](#)

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

None identified.



## MISSISSIPPI

**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.

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

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

[Mississippi Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

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

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**MISSISSIPPI**

**Does an APRN have prescribing authority?  
If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

“A certified APRN shall not utilize blank prescription pads or order forms upon which the signature of the certified APRN or controlled substance prescribed has been mechanically or photostatically reproduced. This prohibition includes the telefaxing or emailing of any controlled substance prescription. Electronic transcription that complies with federal DEA language is allowed.”

[30-2840 MISS. CODE R. § 2.4.](#)

**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.

**PRIVACY/CONFIDENTIALITY**

**Are there privacy/confidentiality requirements specifically related to  
telemental/telebehavioral/telepsychiatric health services?**

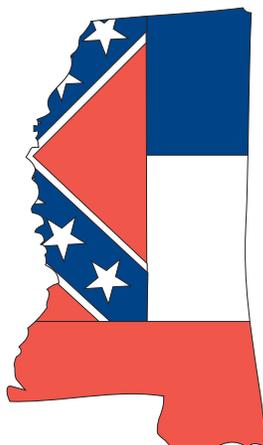
The Missouri medical practice regulations require the following: “The physician treating a patient through a telemedicine network must maintain a complete record of the patient’s care. The physician must maintain the record’s confidentiality and disclose the record to the patient consistent with state and federal laws. If the patient has a primary treating physician and a telemedicine physician for the same medical condition, then the primary physician’s medical record and the telemedicine physician’s record constitute one complete patient record.”

[30-2635 MISS. CODE R. § 5.6.](#)

**MINORS**

**What are the requirements/restrictions regarding the provision of  
telemental/telebehavioral/telepsychiatric health services to minors?**

None identified.



## MISSISSIPPI

### FOLLOW-UP CARE

#### What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

“In order to practice telemedicine a valid physician patient relationship must be established. The elements of this valid relationship are:

- A. verify[ing] that the person requesting the medical treatment is in fact who they claim to be;
- B. conducting an appropriate examination of the patient that meets the applicable standard of care;
- C. establishing a diagnosis through the use of accepted medical practices, i.e., a patient history, mental status exam, physical exam and appropriate diagnostic and laboratory testing;
- D. discussing with the patient the diagnosis, risks and benefits of various treatment options to obtain informed consent;
- E. insuring the availability of appropriate follow-up care; and
- F. maintaining a complete medical record available to patient and other treating health care providers.”

[30-2635 MISS. CODE R. § 5.4.](#)

#### 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?

None identified.

### 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.

The Mississippi parity statutes requires “all health insurance and employee benefit plans in the state” to “provide coverage for telemedicine services to the same extent that the services would be covered if they were provided through in-person consultation.”

[MISS. CODE § 83-9-351.](#)

“All health insurance and employee benefit plans in this state must provide coverage and reimbursement for the asynchronous telemedicine services of store-and-forward telemedicine services and remote patient monitoring services based on the criteria set out in this section. Store-and-forward telemedicine services shall be reimbursed to the same extent that the services would be covered if they were provided through in-person consultation.”

[MISS. CODE § 83-9-353.](#)



## MISSISSIPPI

### Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

“A health insurance or employee benefit 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.”

“A health insurance or employee benefit plan may limit coverage to health care providers in a telemedicine network approved by the plan.”

“In a claim for the services provided, the appropriate procedure code for the covered services shall be included with the appropriate modifier indicating interactive communication was used.”

“The originating site is eligible to receive a facility fee, but facility fees are not payable to the distant site.”

[MISS. CODE § 83-9-351.](#)

“Any patient receiving medical care by store-and-forward telemedicine services shall be notified of the right to receive interactive communication with the distant specialist health care provider and shall receive an interactive communication with the distant specialist upon request. If requested, communication with the distant specialist may occur at the time of the consultation or within thirty (30) days of the patient’s notification of the request of the consultation. Telemedicine networks unable to offer the interactive consultation shall not be reimbursed for store-and-forward telemedicine services.”

“Remote patient monitoring services shall include reimbursement for a daily monitoring rate at a minimum of Ten Dollars (\$ 10.00) per day each month and Sixteen Dollars (\$ 16.00) per day when medication adherence management services are included, not to exceed thirty-one (31) days per month. These reimbursement rates are only eligible to Mississippi-based telehealth programs affiliated with a Mississippi health care facility.”

“A one-time telehealth installation/training fee for remote patient monitoring services will also be reimbursed at a minimum rate of Fifty Dollars (\$ 50.00) per patient, with a maximum of two (2) installation/training fees/calendar year. These reimbursement rates are only eligible to Mississippi-based telehealth programs affiliated with a Mississippi health care facility.”

[MISS. CODE § 83-9-353.](#)

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

“All health insurance and employee benefit plans in this state must provide coverage and reimbursement for the asynchronous telemedicine services of store-and-forward telemedicine services and remote patient monitoring services. . . .”

To be eligible for remote patient monitoring services, an individual “must meet all the following criteria:

- a. Be diagnosed, in the last eighteen (18) months, with one or more chronic conditions, as defined by the Centers for Medicare and Medicaid Services (CMS), which include, but are not limited to, sickle cell, mental health, asthma, diabetes, and heart disease;
- b. Have a recent history of costly service use due to one or more chronic conditions as evidenced by two (2) or more hospitalizations, including emergency room visits, in the last twelve (12) months; and
- c. The patient’s health care provider recommends disease management services via remote patient monitoring.”



## MISSISSIPPI

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

“A remote patient monitoring prior authorization request form must be submitted to request telemonitoring services.”

[MISS. CODE § 83-9-353.](#)

Mississippi Medicaid covers mental health medication evaluation and management via telehealth transmissions. Such services “must be provided by a:

- a. Licensed physician,
- b. Doctor of osteopathy,
- c. Psychiatric mental health nurse practitioner, or
- d. Physician assistant with two (2) years psychiatric training[.]”

[CODE OF MISS. RULES 23-206, p.25.](#)

Mississippi Medicaid also covers teleradiology services.

[CODE OF MISS. RULES 23-330, p.6.](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

Mississippi law defines “controlled substance” to mean “a drug, substance or immediate precursor in Schedules I through V of Section 41-29-113 through 41-29-121.”

[MISS. CODE § 41-29-105.](#)

### What are the requirements/laws governing the prescribing of “controlled” substances?”

“Reporting of dispensing information shall be mandatory and required by the State Board of Pharmacy for any entity dispensing controlled substances in or into the State of Mississippi, except for the dispensing of controlled substance drugs prescribed by a veterinarian residing in the State of Mississippi.”

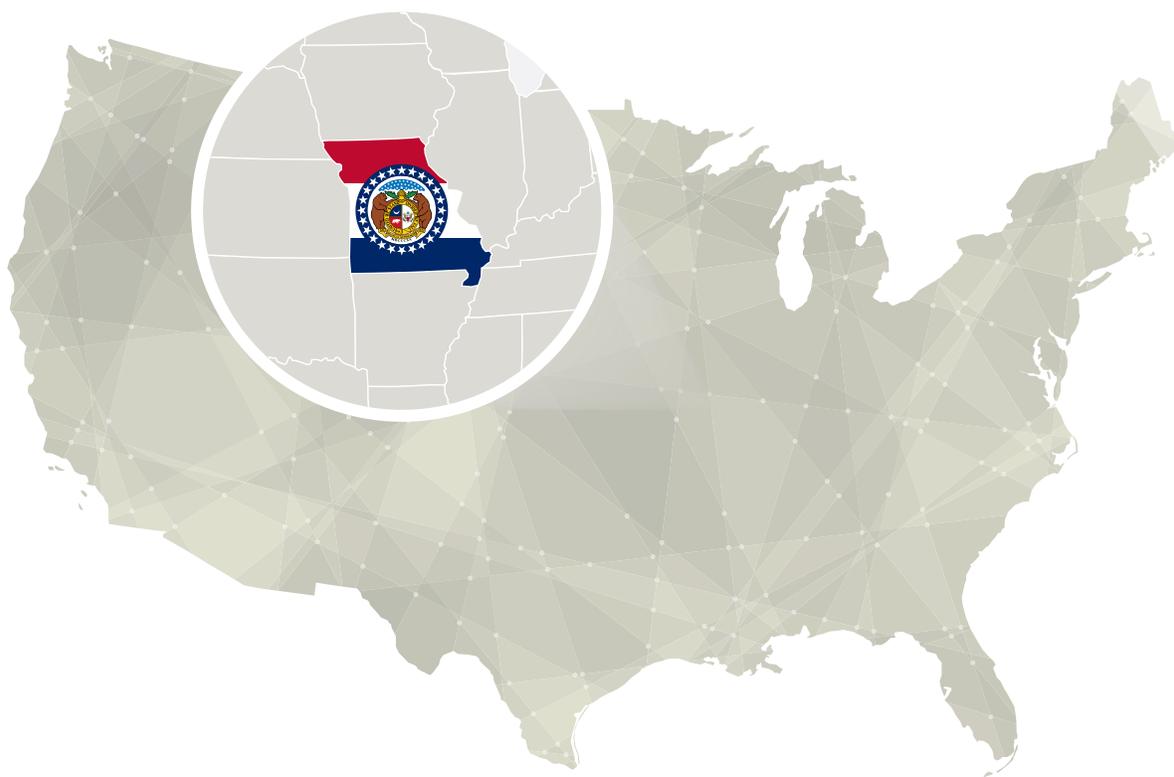
[MISS. CODE § 73-21-127.](#)

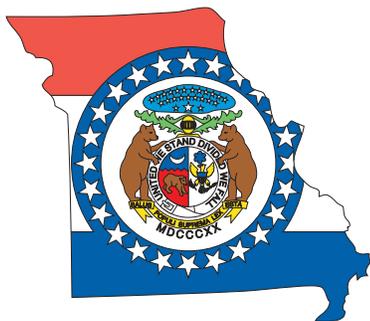
“Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in Schedule II, as set out in Section 41-29-115, may be dispensed without the written prescription of a practitioner. A practitioner shall keep a record of all controlled substances in Schedule I, II and III administered, dispensed or professionally used by him otherwise than by prescription.”

“Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, as set out in Sections 41-29-117 and 41-29-119, which is a prescription drug as determined under Federal Control Substance Act, shall not be dispensed without a written or oral prescription of a practitioner. The prescription shall not be filled or refilled more than six (6) months after the date thereof or be refilled more than five (5) times, unless renewed by the practitioner.”

[MISS. CODE § 41-29-137.](#)

# MISSOURI





## MISSOURI

### What is the definition of “telemedicine” or “telehealth”?

The Missouri Nurse Practice Act defines “telehealth” to mean “the use of medical information exchanged from one site to another via electronic communications to improve the health status of a patient . . .”

[MO. REV. STAT. § 335.175.](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[Missouri Board of Registration for the Healing Arts](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

None identified.

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

No specific conditions/limits identified.

### 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.



## MISSOURI

### PSYCHOLOGISTS

What is the regulatory body in the state that governs the practice of psychology?

[Missouri Committee of Psychologists](#)

What are the restrictions on the scope of practice for psychologists 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)?

None identified.

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

No.

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.

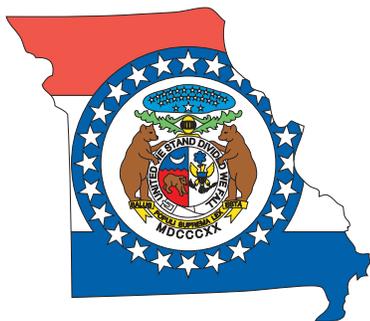
### SOCIAL WORKERS

What is the regulatory body in the state that governs the practice of social work?

[Missouri Committee for Social Workers](#)

What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

None identified.



## MISSOURI

**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.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[Missouri Committee for Professional Counselors](#)

**What are the restrictions on the scope of practice for counselors 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)?**

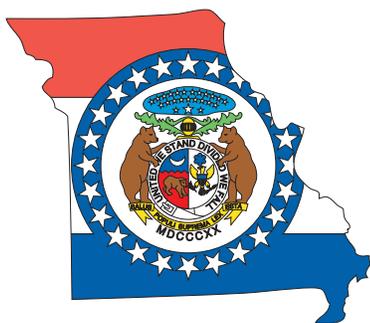
None identified.

However, a professional counselor must complete at least 1,200 hours of supervised direct client contact counseling experience. "Direct client contact" means face-to-face interaction between the client/patient or group and the counselor-in-training or provisional licensed professional counselor in the same room.

[MO. CODE REGS. tit. 20, § 2095-2.020\(4\)\(C\).](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.



## MISSOURI

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Missouri Committee of Marital & Family Therapists](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

However, a marriage and family therapist must complete at least 1,500 hours of supervised direct client contact therapy experience. "Direct client contact" means face-to-face interaction between the client and the professional licensed marriage and family therapist in the same room.

[MO. CODE REGS. tit. 20, § 2095-2.020\(4\)\(C\).](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

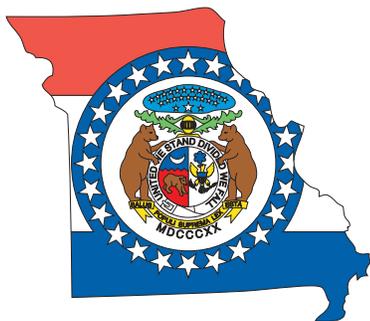
None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.



## MISSOURI

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Missouri Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?**

Missouri H.B. 315, codified at MO. REV. STAT. § 335.175, established requirements for the “Utilization of Telehealth by Nurses” and removed geographic limitations for APRNs practicing in collaborative practice arrangements in rural areas of need if they were utilizing telehealth in the care of the patient.

To comply with the requirements of the Utilization of Telehealth by Nurses, the Missouri State Board of Nursing was required to promulgate rules and proposed amendments to existing collaborative practice rules that were published in the Missouri Register on December 15, 2014, and were open for public comment for 30 days. No further action has been taken at this time.

[MO. REV. STAT. § 335.175; Proposed Amendment to MO. CODE REGS. tit. 20, § 2150-5.100, 39 Mo. Reg. 2140-2141 \(Dec. 15, 2014\).](#)

**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.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

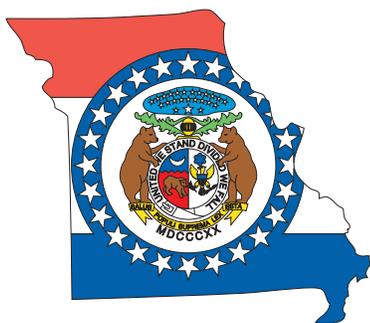
**Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

No telehealth-specific conditions/limits identified.

**What are the acceptable modalities (e.g., telephone, video) for the practice of advanced practice nursing via telemedicine/telehealth that meet the standard of care for the state?**

None identified.



## MISSOURI

### PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.

### MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

### FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

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?

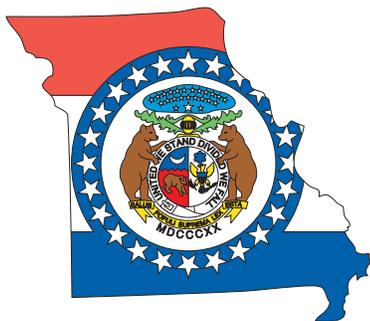
None identified.

### 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.

Missouri's parity statute prohibits a health carrier or health benefit plan that offers or issues health benefit plans that are delivered, issued for delivery, continued, or renewed in the state on or after January 1, 2014, from denying "coverage for



## MISSOURI

### 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? CONTINUED

a health care service on the basis that the health care service is provided through telehealth if the same service would be covered if provided through face-to-face diagnosis, consultation, or treatment.”

“A health carrier may not exclude an otherwise covered health care service from coverage solely because the service is provided through telehealth rather than face-to-face consultation or contact between a health care provider and a patient.”

[MO. REV. STAT. § 376.1900.](#)

### Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

Yes.

“A health carrier shall not be required to reimburse a telehealth provider or a consulting provider for site origination fees or costs for the provision of telehealth services; however, subject to correct coding, a health carrier shall reimburse a health care provider for the diagnosis, consultation, or treatment of an insured or enrollee when the health care service is delivered through telehealth on the same basis that the health carrier covers the service when it is delivered in person.”

“A health carrier shall not impose upon any person receiving benefits under this section any co-payment, coinsurance, or deductible amount, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services that is not equally imposed upon all terms and services covered under the policy, contract, or health benefit plan.”

[MO. REV. STAT. § 376.1900.](#)

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

Missouri Medicaid covers medically necessary telehealth services.

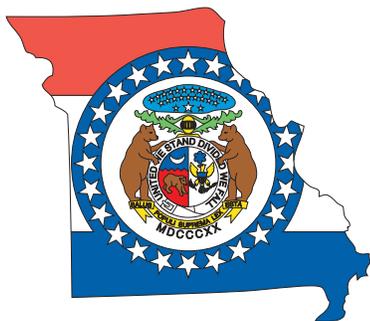
[MO. CODE REGS. ANN. tit. 13, § 70-3.190\(2\)\(A\).](#)

“Telehealth may be utilized to service individuals who are qualified as MO HealthNet participants under Missouri law. Reimbursement for such services shall be made in the same way as reimbursement for in-person contacts.”

[MO. REV. STAT. § 208.670.](#)

“Providers eligible to receive payment for Telehealth services include:

- Physicians
- Advanced Registered Nurse Practitioners, including Nurse Practitioners with a Mental Health specialty
- Psychologists”



## MISSOURI

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

[MO HealthNet, Provider Manual, Physician, Sec. 13.69, p. 276 \(Feb. 9, 2016\).](#)

Covered services are “limited to:

1. Consultations made to confirm a diagnosis; or
2. Evaluation and management services; or
3. A diagnosis, therapeutic, or interpretive service; or
4. Individual psychiatric or substance assessment diagnostic interview examinations; or
5. Individual psychotherapy . . . .”

[MO. CODE REGS. ANN. tit. 13, § 70-3.190\(2\)\(C\).](#)

“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. . . . 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, Provider Manual, Physician Services, Sec. 13.69, p. 277 \(Feb. 9, 2016\).](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

In Missouri, a “controlled substance” is defined as “a drug, substance, or immediate precursor in Schedules I through V listed in [[Chapter 195](#) of the Missouri Revised Statutes].”

[MO. REV. STAT. § 195.010.](#)

### What are the requirements/laws governing the prescribing of “controlled” substances”?

“No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare, distribute, dispense or prescribe any controlled substance and no person as a wholesaler shall supply the same, without having first obtained a registration issued by the department of health and senior services in accordance with rules and regulations promulgated by it. No registration shall be granted for a term exceeding three years.”

[MO. REV. STAT. § 195.030.](#)

“Registered individual practitioners and institutional practitioners are required to keep records with respect to controlled substances which are prescribed, administered or dispensed.”

[MO. CODE REGS. tit. 19, § 30-1.035.](#)

“Each individual practitioner shall maintain a record of the date, full name and address of the patient, the drug name, strength, dosage form and quantity for all controlled substances prescribed or administered.”

[MO. CODE REGS. tit. 19, § 30-1.048.](#)

# MONTANA





## MONTANA

### What is the definition of “telemedicine” or “telehealth”?

***Effective July 1, 2015, certain provisions within Montana’s Medical Practice Act were repealed by SB77, including provisions pertaining to licensure generally and specifically to the state requiring a separate telemedicine license.***

Montana’s parity statute defines “telemedicine” as “the use of interactive audio, video, or other telecommunications technology that is: (A) used by a health care provider or health care facility to deliver health care services at a site other than the site where the patient is located; and (B) delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq.”

The term “telemedicine” 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.

The term “telemedicine” does not include the use of audio-only telephone, e-mail, or facsimile transmissions.

[MONT. CODE ANN. § 33-22-138.](#)

Montana’s Medical Practice Act also defines “telemedicine” as “the practice of medicine using interactive electronic communications, 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. Telemedicine typically involves the application of secure videoconferencing or store-and-forward technology, as defined in 33-22-138.”

The term “telemedicine” does not mean an audio-only telephone conversation, an e-mail or instant messaging conversation, or a message sent by facsimile transmission.

[MONT. CODE ANN. § 37-3-102.](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[Montana Board of Medical Examiners](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

***Effective July 1, 2015, certain provisions within Montana’s Medical Practice Act were repealed by SB77, including provisions pertaining to licensure generally and specifically to the state requiring a separate telemedicine license.***

***SB77 also directed the Montana Board of Medical Examiners to enact guidelines by administrative rule for the practice of telemedicine by physicians. At present, it does not appear that the Board has enacted such guidelines. However, physicians may practice telemedicine as part of their “practice of medicine.”***

[Montana SB77](#); [Montana Board of Medical Examiners FAQ](#); [MONT. CODE ANN. §§ 37-3-102; 37-3-301.](#)



## MONTANA

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychiatrist have prescribing authority?  
If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?**

Yes.

No telehealth-specific conditions/limits identified.

**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.

### PSYCHOLOGISTS

**What is the regulatory body in the state that governs the practice of psychology?**

[Montana Board of Psychologists](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

Montana's psychology practice regulations define the term "defined professional relationship" to mean "a relationship in which a licensee or license applicant provides diagnostic, assessment and/or therapeutic services to a client. A defined professional relationship shall be initially established in a context where services are provided:

- a. in person and face-to-face; or
- b. transmitted via electronic or related methods. If provided under this subsection, the context must also be:
  - i. two-way;
  - ii. interactive;
  - iii. real-time;
  - iv. simultaneous;
  - v. continuous; and
  - vi. providing for both audio and visual interaction."

[MONT. ADMIN. R. 24.189.301.](#)



## MONTANA

**Does a psychologist have prescribing authority?  
If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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?**

“A defined professional relationship shall be initially established in a context where services are provided:

- a. in person and face-to-face; or
- b. transmitted via electronic or related methods. If provided under this subsection, the context must also be:
  - i. two-way;
  - ii. interactive;
  - iii. real-time;
  - iv. simultaneous;
  - v. continuous; and
  - vi. providing for both audio and visual interaction.”

[MONT. ADMIN. R. 24.189.301.](#)

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[Montana Board of Behavioral Health](#)

**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)?**

None identified.

However, the Montana social work practice regulations require a certain number of hours of “direct client contact” for licensure. “Direct client contact” is defined to mean “physical presence, telephonic presence, or interactive video link presence of the client, client family member, or client representative.”

[MONT. ADMIN. R. 24.219.301.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.



## MONTANA

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[Montana Board of Behavioral Health](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, the counselor practice regulations require a certain number of hours of “direct client contact” for licensure. “Direct client contact” is defined to mean “physical presence, telephonic presence, or interactive video link presence of the client, client family member, or client representative.”

[MONT. ADMIN. R. 24.219.301.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.



## MONTANA

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Montana Board of Behavioral Health](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

However, the marriage and family therapist practice regulations require a certain number of hours of “direct client contact” for licensure. “Direct client contact” is defined to mean “physical presence, telephonic presence, or interactive video link presence of the client, client family member, or client representative.”

[MONT. ADMIN. R. 24.219.301.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Montana Board of Nursing](#)



## MONTANA

### What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

None identified.

However, the [Montana Board of Nursing FAQs](#) contain the following exchange:

**“[Q:] I work as a telephonic nurse. Am I required to have Montana nursing license?”**

**[A:]** Yes. Anytime you are providing nursing services to person in Montana, you are required to hold an active Montana Nursing license.”

### 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.

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes.

[MONT. ADMIN. R. 24.159.1461.](#)

No telehealth-specific conditions/limits identified.

### 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.

## PRIVACY/CONFIDENTIALITY

### Are there privacy/confidentiality requirements specifically related to telemental/telebehaviorial/telepsychiatric health services?

None identified.



## MONTANA

### MINORS

**What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?**

None identified.

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

**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?**

None identified.

### 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.

“Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage for health care services must provide coverage for health care services provided by a health care provider or health care facility by means of telemedicine if the services are otherwise covered by the policy, certificate, contract, or agreement.”

“Coverage under this section must be equivalent to the coverage for services that are provided in person by a health care provider or health care facility.”

“Nothing in this section may be construed to require:

- A health insurance issuer to provide coverage for services that are not medically necessary, subject to the terms and conditions of the insured’s policy; or
- A health care provider to be physically present with a patient at the site where the patient is located unless the health care provider who is providing health care services by means of telemedicine determines that the presence of a health care provider is necessary.”

[MONT. CODE ANN. § 33.22.138.](#)



## MONTANA

### Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.

However, “coverage under this section may be subject to deductibles, coinsurance, and copayment provisions. Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical services covered under the plan may not be imposed on the coverage for services provided by means of telemedicine.”

[MONT. CODE ANN. § 33.22.138.](#)

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

“Medicaid covers telemedicine services when the consulting provider is enrolled in Medicaid.”

“The requesting provider need not be enrolled in Medicaid nor be present during the telemedicine consult.”

“Medicaid does not cover network use charges.”

[Montana Department of Health & Human Services, Medicaid Manual, Physician-Related Services, § 2.9.](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

Montana statutes define “dangerous drug” as “a drug, substance, or immediate precursor in Schedules I through V set forth in Title 50, chapter 32, part 2.”

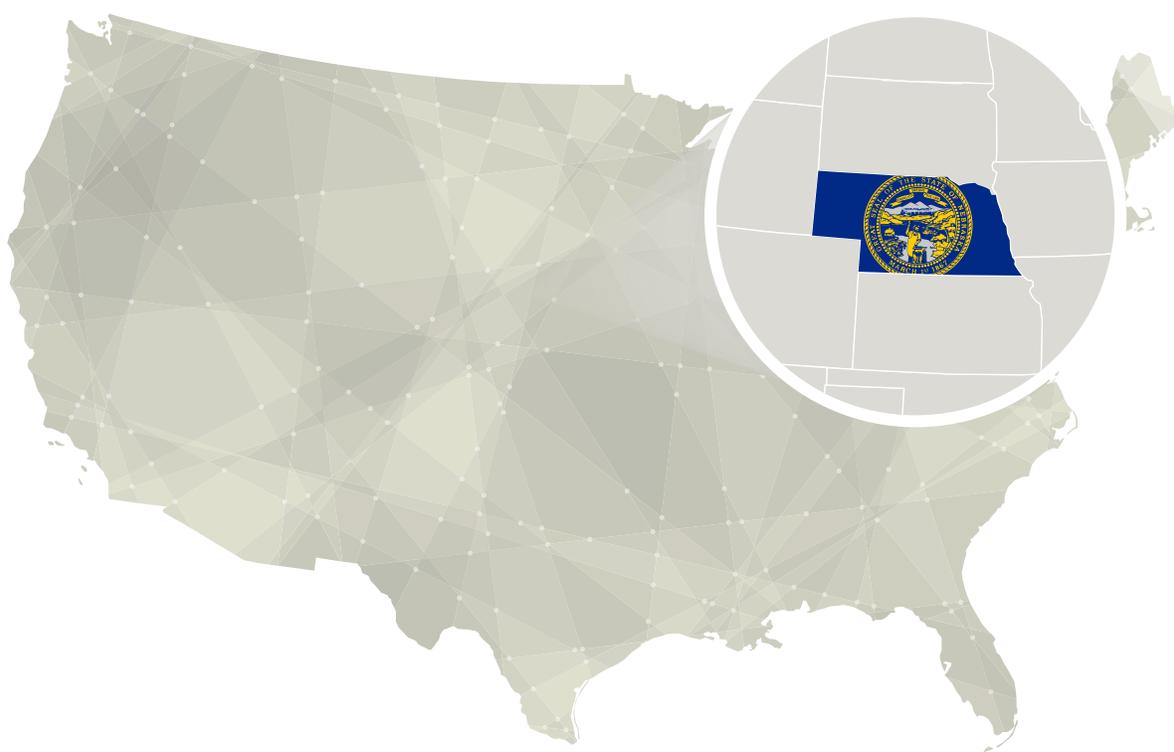
[MONT. CODE ANN. § 50.32.101.](#)

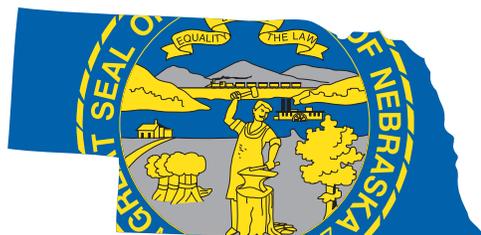
### What are the requirements/laws governing the prescribing of “controlled” substances”?

“Every person who manufactures, distributes, or dispenses any dangerous drug within this state must obtain annually a registration issued by the department in accordance with board rules.”

[MONT. CODE ANN. § 50.32.301.](#)

# NEBRASKA





## NEBRASKA

### What is the definition of “telemedicine” or “telehealth”?

“Telehealth” is defined to mean “the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care practitioner in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient’s home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to, or retrieved by, a health care practitioner at another site for medical evaluation, and telemonitoring.”

[NEB. REV. STAT. § 71-8503.](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

**PSYCHIATRISTS**

### What is the regulatory body in the state that governs the practice of psychiatry?

[Nebraska Department of Health & Human Services, Medical & Specialized Health Section](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

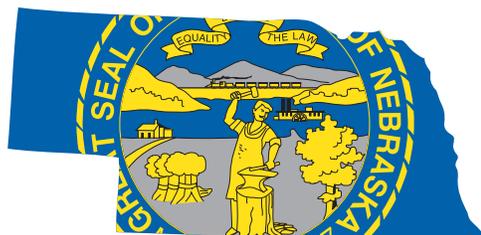
None identified.

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

A written statement is required before care is provided.

The Nebraska Telehealth Act provides the following:

1. Prior to an initial telehealth consultation under section 71-8506, a health care practitioner who delivers a health care service to a patient through telehealth shall ensure that the following written information is provided to the patient:
  - a. A statement that the patient retains the option to refuse the telehealth consultation at any time without affecting the patient’s right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the patient would otherwise be entitled;
  - b. A statement that all existing confidentiality protections shall apply to the telehealth consultation;



## NEBRASKA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth? CONTINUED

- c. A statement that the patient shall have access to all medical information resulting from the telehealth consultation as provided by law for patient access to his or her medical records; and
  - d. A statement that dissemination of any patient identifiable images or information from the telehealth consultation to researchers or other entities shall not occur without the written consent of the patient.
2. The patient shall sign a written statement prior to an initial telehealth consultation, indicating that the patient understands the written information provided pursuant to subsection (1) of this section and that this information has been discussed with the health care practitioner or his or her designee. Such signed statement shall become a part of the patient's medical record.
  3. If the patient is a minor or is incapacitated or mentally incompetent such that he or she is unable to sign the written statement required by subsection (2) of this section, such statement shall be signed by the patient's legally authorized representative.
  4. This section shall not apply in an emergency situation in which the patient is unable to sign the written 2 statement required by subsection (2) of this section and the patient's legally authorized representative is unavailable.

[NEB. REV. STAT. §71-8505.](#)

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

No telehealth-specific conditions/limits identified.

### 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.

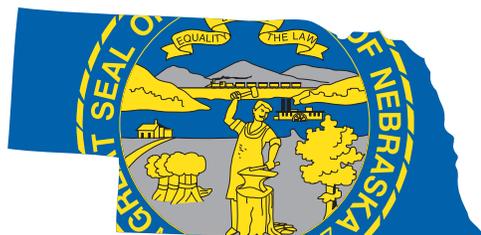
## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[Nebraska Department of Health & Human Services, Psychology Licensing Unit](#)

### What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

None identified.



## NEBRASKA

**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.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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.

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[Nebraska Department of Health & Human Services, Board of Mental Health Practice](#)

**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)?**

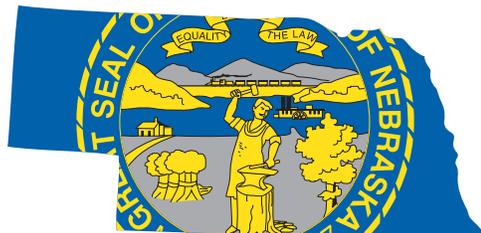
None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.



## 50-State Survey of Telemental/Telebehavioral Health

**NEBRASKA**

**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.

**COUNSELORS**

**What is the regulatory body in the state that governs the practice of counseling?**

[Nebraska Department of Health & Human Services, Board of Mental Health Practice](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority? If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

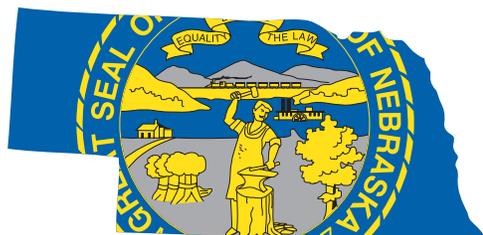
**MARRIAGE/FAMILY  
THERAPISTS**

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Nebraska Department of Health & Human Services, Board of Mental Health Practice](#)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

None identified.



## NEBRASKA

**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.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Nebraska Department of Health & Human Services, Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

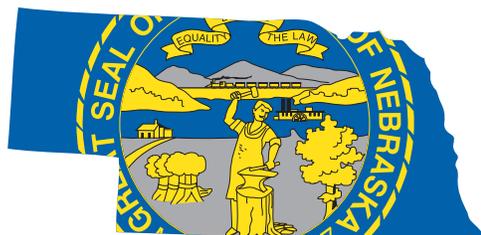
**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

No telehealth-specific conditions/limits identified.



## NEBRASKA

**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.

### PRIVACY/CONFIDENTIALITY

**Are there privacy/confidentiality requirements specifically related to telemental/telebehaviorial/telepsychiatric health services?**

None identified.

### MINORS

**What are the requirements/restrictions regarding the provision of telemental/telebehaviorial/telepsychiatric health services to minors?**

“If the patient is a minor or is incapacitated or mentally incompetent such that he or she is unable to sign the written statement required by subsection (2) of this section, such statement shall be signed by the patient’s legally authorized representative.”

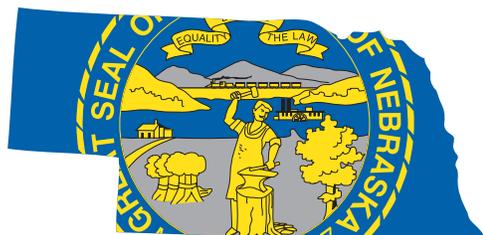
[NEB. REV. STAT. § 71-8505.](#)

The rules and regulations for telebehavioral services for children include, but are not limited to, the following:

- a. An appropriately trained staff member or employee familiar with the child’s treatment plan or familiar with the child shall be immediately available in person to the child receiving a telehealth behavioral health service in order to attend to any urgent situation or emergency that may occur during provision of such service. This requirement may be waived by the child’s parent or legal guardian;
- b. In cases in which there is a threat that the child may harm himself or herself or others, before an initial telehealth service the health care practitioner shall work with the child and his or her parent or guardian to develop a safety plan. Such plan shall document actions the child, the health care practitioner, and the parent or guardian will take in the event of an emergency or urgent situation occurring during or after the telehealth session. Such plan may include having a staff member or employee familiar with the child’s treatment plan immediately available in person to the child, if such measures are deemed necessary by the team developing the safety plan; and
- c. Services provided by means of telecommunications technology, other than telehealth behavioral health 3 services received by a child, are not covered if the child has access to a comparable service within thirty miles of his or her place of residence.

[NEB. REV. STAT. § 71-8509.](#)

The Nebraska Telehealth Act also provides for the creation of a Behavioral Health Screening and Referral Pilot Program, to be developed by the University of Nebraska Medical Center and to focus on addressing unmet emotional and/or behavioral health needs of children using a model that ultimately can be replicated statewide. See [NEB. REV. STAT. § 71-8512](#) for details.



## NEBRASKA

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

**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?**

None identified.

### 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?**

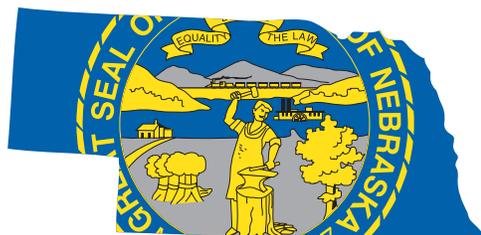
None identified.

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

“Coverage for behavioral health treatment, including applied behavior analysis, shall be subject to a maximum benefit of twenty-five hours per week until the insured reaches twenty-one years of age. Payments made by an insurer on behalf of a covered individual for treatment other than behavioral health treatment, including applied behavior analysis, shall not be applied to any maximum benefit established under this section.”

“Except in the case of inpatient service, if an individual is receiving treatment for an autism spectrum disorder, an insurer shall have the right to request a review of that treatment not more than once every six months unless the insurer and the individual’s licensed physician or licensed psychologist execute an agreement that a more frequent review is necessary. Any such agreement regarding the right to review a treatment plan more frequently shall apply only to a particular individual being treated for an autism spectrum disorder and shall not apply to all individuals being treated for autism spectrum disorder by a licensed physician or licensed psychologist. The cost of obtaining a review under this subsection shall be borne by the insurer.”

“Behavioral Health Treatment” is defined as “counseling and treatment programs, including applied behavior analysis, that are: (i) necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of an individual; and (ii) provided or supervised, either in person or by telehealth, by a behavior analyst certified by a national certifying organization or a licensed psychologist if the services performed are within the boundaries of the psychologist’s competency.”



## NEBRASKA

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

[NEB. REV. STAT. § 71-8501 \*et seq.\*](#)

“Prior to an initial telehealth consultation under section [71-8506](#), a health care practitioner who delivers a health care service to a patient through telehealth shall ensure that the following written information is provided to the patient:

- a. A statement that the patient retains the option to refuse the telehealth consultation at any time without affecting the patient’s right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the patient would otherwise be entitled;
- b. A statement that all existing confidentiality protections shall apply to the telehealth consultation;
- c. A statement that the patient shall have access to all medical information resulting from the telehealth consultation as provided by law for patient access to his or her medical records; and
- d. A statement that dissemination of any patient identifiable images or information from the telehealth consultation to researchers or other entities shall not occur without the written consent of the patient.”

“The patient shall sign a written statement prior to an initial telehealth consultation, indicating that the patient understands the written information provided pursuant to subsection (1) of this section and that this information has been discussed with the health care practitioner or his or her designee. Such signed statement shall become a part of the patient’s medical record.”

“If the patient is a minor or is incapacitated or mentally incompetent such that he or she is unable to sign the written statement required by subsection (2) of this section, such statement shall be signed by the patient’s legally authorized representative.”

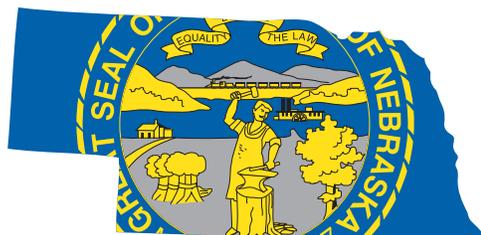
“This section shall not apply in an emergency situation in which the patient is unable to sign the written statement required by subsection (2) of this section and the patient’s legally authorized representative is unavailable.”

[NEB. REV. STAT. § 71-8505.](#)

“In-person contact between a health care practitioner and a patient shall not be required under the medical assistance program established pursuant to the Medical Assistance Act and Title XXI of the federal Social Security Act, as amended, for health care services delivered through telehealth that are otherwise eligible for reimbursement under such program and federal act. Such services shall be subject to reimbursement policies developed pursuant to such program and federal act. This section also applies to managed care plans which contract with the department pursuant to the Medical Assistance Act only to the extent that:

- a. Health care services delivered through telehealth are covered by and reimbursed under the Medicaid fee-for-service program; and
- b. Managed care contracts with managed care plans are amended to add coverage of health care services delivered through telehealth and any appropriate capitation rate adjustments are incorporated.”

“The reimbursement rate for a telehealth consultation shall, as a minimum, be set at the same rate as the medical assistance program rate for a comparable in-person consultation, and the rate shall not depend on the distance between the health care practitioner and the patient.”



## NEBRASKA

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

“The department shall establish rates for transmission cost reimbursement for telehealth consultations, considering, to the extent applicable, reductions in travel costs by health care practitioners and patients to deliver or to access health care services and such other factors as the department deems relevant. Such rates shall include reimbursement for all two-way, real-time, interactive communications, unless provided by an Internet service provider, between the patient and the physician or health care practitioner at the distant site which comply with the federal Health Insurance Portability and Accountability Act of 1996 and rules and regulations adopted thereunder and with regulations relating to encryption adopted by the federal Centers for Medicare and Medicaid Services and which satisfy federal requirements relating to efficiency, economy, and quality of care.”

[NEB. REV. STAT. § 71-8506.](#)

Nebraska Medicaid also provides for the use of telehealth services for children’s behavioral health.

[NEB. REV. STAT. § 71-8509.](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

Nebraska defines “controlled substance” as “a drug, biological, substance, or immediate precursor in Schedules I to V of section 28-405. Controlled Substance does not include distilled spirits, wine, malt beverages, tobacco, or any nonnarcotic substance if such substance may, under the Federal Food, Drug, and Cosmetic Act . . . be lawfully sold over the counter without a prescription.”

[NEB. REV. STAT. § 28-401.](#)

### What are the requirements/laws governing the prescribing of “controlled” substances”?

“Every person who manufactures, prescribes, distributes, administers, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, prescribing, administering, distribution, or dispensing of any controlled substance within this state shall obtain a registration issued by the department, except that on and after January 1, 2000, health care providers credentialed by the department and facilities licensed by the department shall not be required to obtain a separate Nebraska controlled substances registration upon providing proof of a Federal Controlled Substances Registration to the department. Federal Controlled Substances Registration numbers obtained under this section shall not be public information but may be shared by the department for investigative and regulatory purposes if necessary and only under appropriate circumstances to ensure against any unauthorized access to such information.”

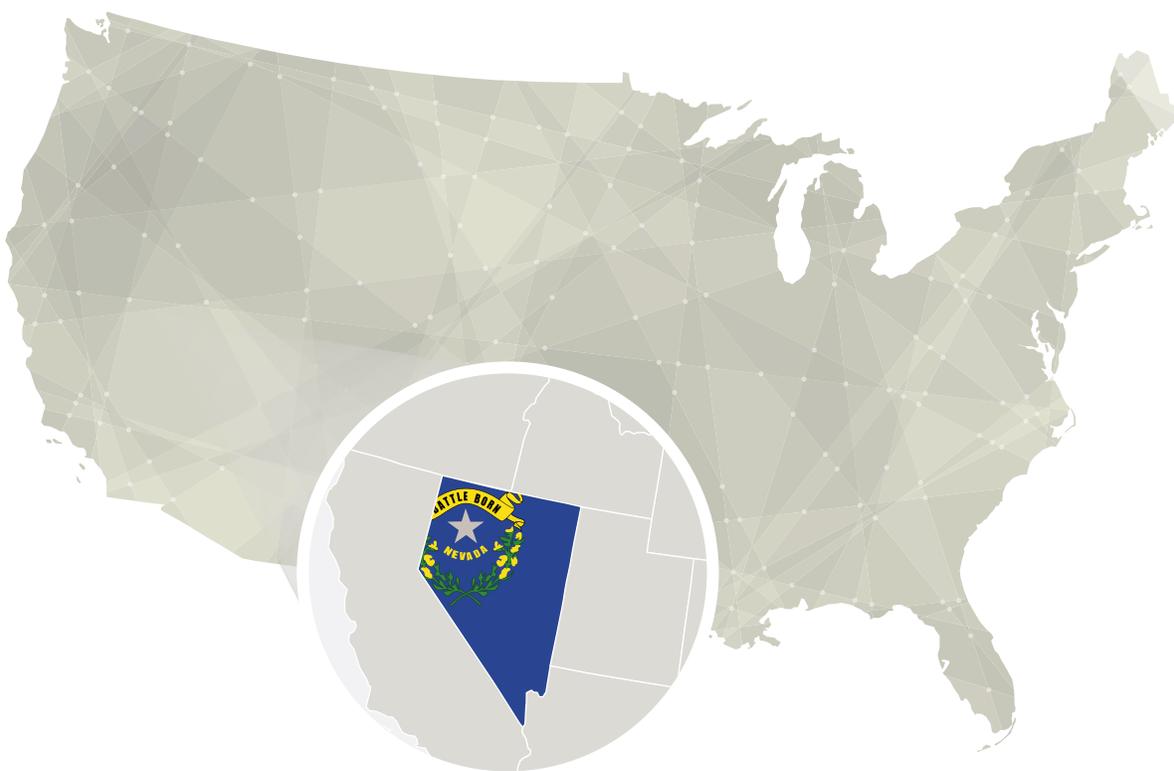
[NEB. REV. STAT. § 28-407.](#)

“If a prescription is created, signed, transmitted, and received electronically, all records related to that prescription must be retained electronically.”

“Electronic records must be maintained electronically for five years after the date of their creation or receipt.”

[NEB. REV. STAT. § 28-414.02.](#)

# NEVADA





## NEVADA

### What is the definition of “telemedicine” or “telehealth”?

None identified.

However, Nevada’s medical practice act defines “practice of medicine” to mean the following:

1. “To diagnose, treat, correct, prevent or prescribe for any human disease, ailment, injury, infirmity, deformity or other condition, physical or mental, by any means or instrumentality, including, but not limited to, the performance of an autopsy.
2. To apply principles or techniques of medical science in the diagnosis or the prevention of any such conditions.
3. To perform any of the acts described in subsections 1 and 2 by using equipment that transfers information concerning the medical condition of the patient electronically, telephonically or by fiber optics from within or outside this State or the United States.
4. To offer, undertake, attempt to do or hold oneself out as able to do any of the acts described in subsections 1 and 2.”

[NEV. REV. STAT. § 630.020.](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[Nevada State Board of Medical Examiners](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes.

The Nevada State Board of Medical Examiners may issue a “special purpose license to a physician who is licensed in another state to perform any of the acts described in subsections 1 and 2 of NRS 630.020 by using equipment that transfers information concerning the medical condition of a patient in this State electronically, telephonically or by fiber optics from within or outside this State or the United States.”

“A physician who holds a special purpose license issued pursuant to this paragraph:

1. Except as otherwise provided by specific statute or regulation, shall comply with the provisions of this chapter and the regulations of the Board; and



## NEVADA

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)? CONTINUED

2. To the extent not inconsistent with the Nevada Constitution or the United States Constitution, is subject to the jurisdiction of the courts of this State.

“For the purpose of paragraph (e) of subsection 1, 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.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

No telehealth-specific conditions/limits identified.

### 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.

## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[State of Nevada Board of Psychological Examiners](#)

### What are the restrictions on the scope of practice for psychologists 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)?

None identified.



## NEVADA

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority?  
If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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.

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[State of Nevada Board of Examiners for Social Workers](#)

**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)?**

Yes.

The Nevada Social Work practice regulations provide that “the provision of social work services to a client within [the] state through any means, including, without limitation, electronic means or by telephone, regardless of the location of the social worker, constitutes the practice of social work and is subject to the provisions of Chapter 641B . . . and any regulations adopted pursuant to that chapter.”

[NEV. ADMIN. CODE § 641B.124.](#)

“Any time a person engages in the practice of social work, the person shall carry evidence that is satisfactory to the Board that he or she holds a license issued by the Board.”

[NEV. ADMIN. CODE § 641B.075.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.



## NEVADA

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[State of Nevada Board of Examiners for Marriage and Family Therapists & Clinical Professional Counselors](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.



## NEVADA

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of counseling?**

[State of Nevada Board of Examiners for Marriage and Family Therapists & Clinical Professional Counselors](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Nevada State Board of Nursing](#)



## NEVADA

### What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

“An advanced practice registered nurse may:

- a. Engage in selected medical diagnosis and treatment; and
- b. If authorized pursuant to [NRS 639.2351](#) and subject to the limitations set forth in subsection 3, prescribe controlled substances, poisons, dangerous drugs and devices.”

“An advanced practice registered nurse may perform the acts described in subsection 2 by using equipment that transfers information concerning the medical condition of a patient in this State electronically, telephonically or by fiber optics from within or outside this State or the United States.”

[NEV. REV. STAT. § 632.237.](#)

“Each registered nurse, licensed practical nurse, certified nursing assistant, medication aide - certified, nursing student and nurse certified in an advanced specialty shall identify himself or herself by his or her appropriate title:

- a. When recording information on a record;
- b. When introducing himself or herself to a client, patient or prospective patient; and
- c. On a name tag which:
  1. Includes, at a minimum, his or her first name and the first initial of his or her last name, and his or her title;
  2. Is prominently displayed on his or her clothing; and
  3. Is clearly legible from a distance of at least 3 feet.”

“Each registered nurse, licensed practical nurse, certified nursing assistant, medication aide - certified, nursing student and nurse certified in an advanced specialty shall, when practicing telenursing, identify orally the state in which he or she is licensed or certified.”

[NEV. REV. STAT. § 632.249.](#)

### 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.

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes.

“An advanced practice registered nurse may:

- a. Engage in selected medical diagnosis and treatment; and
- b. If authorized pursuant to [NRS 639.2351](#) and subject to the limitations set forth in subsection 3, prescribe controlled substances, poisons, dangerous drugs and devices.”

“An advanced practice registered nurse may perform the acts described in subsection 2 by using equipment that transfers information concerning the medical condition of a patient in this State electronically, telephonically or by fiber optics from within or outside this State or the United States.”

[NEV. REV. STAT. § 632.237.](#)



## NEVADA

### 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 Nevada nursing practice regulations define “telenursing” to mean “the provision of nursing care or advice from a remote location through the use of telecommunications equipment, including, but not limited to, a telephone, teletype, facsimile machine and any equipment capable of transmitting a video image.”

[NEV. REV. STAT. § 632.249.](#)

### PRIVACY/CONFIDENTIALITY

### What are the specific privacy/confidentiality requirements involving mental health records?

“A psychologist, licensed behavior analyst, licensed assistant behavior analyst and certified autism behavior interventionist shall maintain a record for each patient or client that includes:

- a. The presenting problem or purpose or diagnosis;
- b. The fee arrangement, if any;
- c. The date and type of evaluation or treatment provided to the patient or client;
- d. The results of tests or other evaluations and the data from which the results were derived;
- e. A description of any consultations with other professionals regarding the patient or client and the results of such consultations; and
- f. A copy of all tests and other evaluative reports which were prepared in the course of the professional relationship.”

[NEV. REV. STAT. § 641.219.](#)

“During the course of a professional relationship with a patient or client and after the relationship is terminated, a psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist shall protect all confidential information obtained in the course of his or her practice, teaching or research, or in the performance of any other services related to his or her profession. Except as otherwise provided in this section, a psychologist, licensed behavior analyst, licensed assistant behavior analyst or certified autism behavior interventionist may disclose confidential information only if he or she obtains the informed written consent of the patient or client.”

[NEV. REV. STAT. § 641.224.](#)

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.

### MINORS

### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.



## NEVADA

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

**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?**

None identified.

### 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.

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

None identified.

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

“The originating site must be located in rural, suburban or urban locations with no geographical restrictions within the state of Nevada.”

“Telehealth services may substitute for an in-person encounter at an originating site. ‘Originating site’ is defined as the location of the site where a patient is receiving telehealth services from a provider of health care located at a distant site. To be reimbursed a facility fee as an originating site, the originating site must be a qualified Medicaid provider that is appropriate for the scope of practice being provided via telehealth.”

“The reimbursement amount for the professional service provided by the physician or provider at the distant site is equal to the current physician fee schedule amount for the service.”

“The service must be within a provider’s scope of practice under state law, must be clinically appropriate and follow standard of practice. When the health care professional at the distant site is licensed or otherwise authorized under state law to provide a covered telehealth service, then he or she may bill for and receive reimbursement for this service when delivered via a telecommunications system.”



## NEVADA

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

The “distant site” is defined as the location of the site where a telehealth provider of health care is providing telehealth services to a patient located at an originating site. The behavioral health provider at the distant site must be licensed to furnish the service under Nevada state law. The behavioral health provider at the distant site who is licensed or otherwise authorized under Nevada state law to furnish a covered telehealth service may bill and receive reimbursement for the service when it is delivered (via a telecommunications system).”

The following coverage and limitations relate 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.
  1. Subsequent Hospital Care
    - a. Subsequent hospital care is limited to one telehealth visit every three calendar days.
    - b. The frequency limit of the benefit is not intended to apply to consulting physicians or providers, who should continue to report initial or follow-up inpatient telehealth consultations.
  2. Subsequent Nursing Facility Care
    - a. Subsequent nursing facility care is limited to one telehealth visit every 30 calendar days.
    - b. Subsequent nursing facility care services reported for a federally mandated periodic visit under 42 Code of Federal Regulations (CFR) 483.40(c) may not be furnished through telehealth.
    - c. The frequency limit of the benefit is not intended to apply to consulting physicians or providers who should continue to report initial or follow-up inpatient telehealth consultations.
  3. Inpatient Telehealth Consultations
    - a. Inpatient telehealth consultations are furnished to beneficiaries in hospitals or SNF (via telehealth) at the request of the physician of record, the attending physician, or another provider.
    - b. The health care professional who furnishes the initial inpatient consultation (via telehealth) cannot be the health care professional of record or the attending health care professional.
    - c. Counseling and coordination of care with other health care professionals or agencies is included as well, consistent with the nature of the problem(s) and the patient’s needs.
  4. 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 or Psychological Assistant
    - a. LCPs, LCSWs 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 or Psychological Assistant may bill and receive reimbursement for individual psychotherapy (via a telecommunications system), but may not seek reimbursement for medical evaluation and management services. Refer to MSM Chapter 400 for medical coverage requirements.
  5. End Stage Renal Disease (ESRD)
    - a. ESRD visits must include at least one face-to-face visit to examine the vascular access site by a provider; however an interactive audio/video telecommunications system may be used for providing additional visits.
    - b. Medical records must indicate that at least one of the visits was furnished face-to-face by a provider. Refer to MSM Chapter 600 for medical coverage requirements.



## NEVADA

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

#### 6. Smoking Cessation

- a. Smoking cessation counseling services are covered only for pregnant women. Refer to MSM Chapter 600 for medical coverage requirements.”

Non-covered services include the following:

- A. “Services delivered using telecommunications, but not requiring the recipient to be present during the consultant’s evaluation;
- B. Interpretation and report of radiology and diagnostic testing;
- C. Asynchronous telecommunications in single media format, such as:
  1. telephone calls;
  2. images transmitted via facsimile machines; and
  3. text messages (electronic mail).”

[Nevada Department of Health & Human Services, Medicaid Services Manual, ch. 3400.](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

“Controlled substance analog” is defined to mean “a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance placed in schedule I or II and:

- (a) Which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance placed in schedule I or II pursuant to [NRS 453.166](#) or [453.176](#); or
- (b) With respect to a particular person, which he or she represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in schedule I or II.

The term does not include:

- (a) A controlled substance;
- (b) A substance for which there is an approved new drug application;
- (c) A substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) to the extent conduct with respect to the substance is permitted by the exemption; or
- (d) Any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.”

[NEV. REV. STAT. § 453.256.](#)



## NEVADA

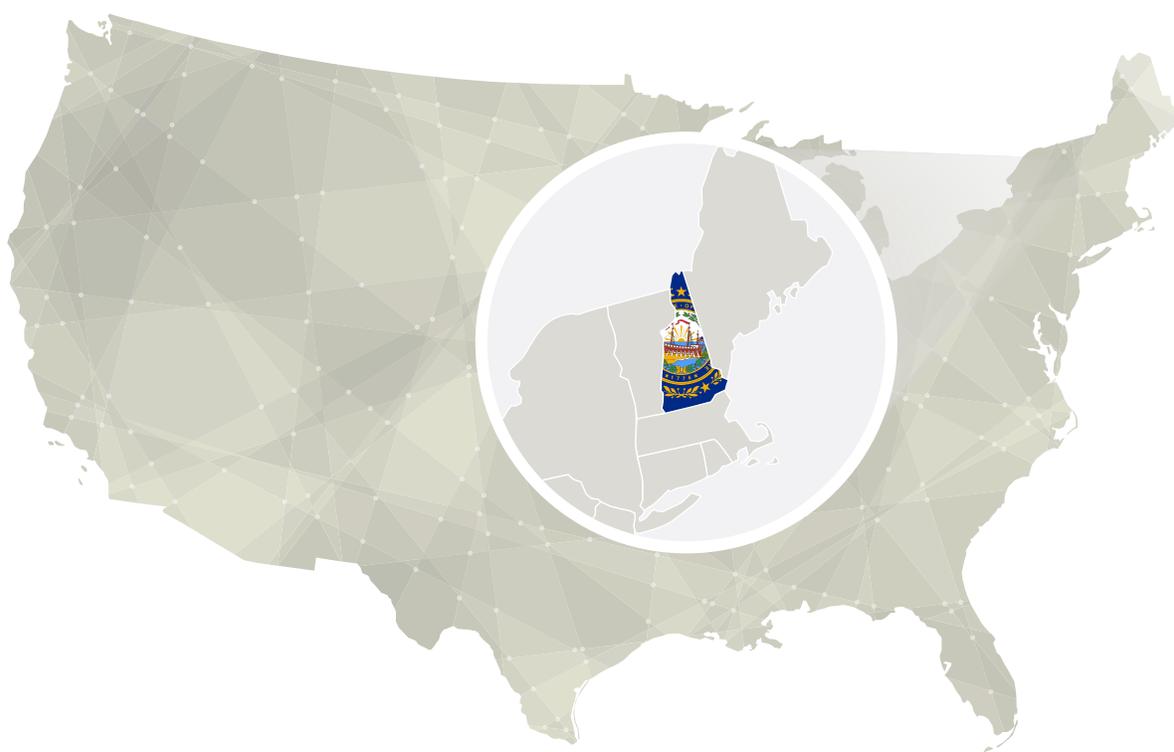
### What are the requirements/laws governing the prescribing of “controlled” substances”?

“Except as otherwise provided in subsection 2, each prescription for a controlled substance, other than an oral or electronically transmitted prescription, must contain:

- (a) The name of the prescribing practitioner;
- (b) The address of the prescribing practitioner if not immediately available to the pharmacist or pharmaceutical technician;
- (c) The handwritten signature of the prescribing practitioner in nonerasable ink;
- (d) The date that the prescription was issued as expressed in the order of month, day and year;
- (e) The full name of the patient;
- (f) The address of the patient if not immediately available to the pharmacist or pharmaceutical technician;
- (g) The name, strength and quantity of the drug or drugs prescribed;
- (h) The directions for use;
- (i) The classification of the license of the prescribing practitioner; and
- (j) The registration number from the Drug Enforcement Administration of the prescribing practitioner.”

[NEV. ADMIN. CODE § 453.440.](#)

# NEW HAMPSHIRE





## 50-State Survey of Telemental/Telebehavioral Health

**NEW HAMPSHIRE****What is the definition of “telemedicine” or “telehealth”?**

These terms do not appear to be defined by New Hampshire’s medical practice act, but with respect to the statutory section on coverage for telemedicine services, the following definition applies: “Telemedicine,’ as it pertains to the delivery of health care services, means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. Telemedicine does not include the use of audio-only telephone or facsimile.”

[N.H. REV. STAT. ANN. § 415-J:1.](#)

**What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?**

None identified.

**PSYCHIATRISTS****What is the regulatory body in the state that governs the practice of psychiatry?**

[New Hampshire Board of Medicine](#)

**What are the restrictions on the scope of practice for psychiatrists 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)?**

Yes. New Hampshire licensure is required, with limited exceptions.

In 1999, the New Hampshire Board of Medicine (along with several other boards in the region) agreed to support the following Northeast Region State Medical Boards’ Statement of Principle:

“Except for consultation as defined by our several states, provision of all medical services shall require a full license in the state in which the patient encounter will occur.”

[Northeast Region State Medical Boards, Statement of Principle: Medical Practice Across State Lines \(1999\).](#)

Out-of-state physicians may provide consultation to New Hampshire-licensed physicians. However, regular or frequent consultation by such an unlicensed person will be considered the practice of medicine without a license.

[N.H. REV. STAT. § 329:21.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

New Hampshire’s Medical Practice Act defines the “physician-patient relationship” as “a medical connection between a licensed physician and a patient that includes an in-person 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.”

However, the act states that the “[t]he definition of a physician-patient relationship shall not apply to a physician licensed in another state who is consulting to a New Hampshire licensed physician with whom the patient has a relationship.”

[N.H. REV. STAT. ANN. § 329:1-c.](#)



## NEW HAMPSHIRE

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

Under New Hampshire's Medical Practice Act, "[p]rescribing drugs to individuals without a physician-patient relationship [(as defined above)] shall be unprofessional conduct subject to discipline under RSA 329:17, VI." However, "[a] licensee may prescribe for a patient whom the licensee does not have a physician-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 a physician assistant, nurse practitioner, or other licensed practitioner; or for medication on a short-term basis for a new patient prior to the patient's first appointment or when providing limited treatment to a family member in accordance with the American Medical Association Code of Medical Ethics."

[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?

None identified.

However, per the statutory section regarding coverage of telemedicine services, acceptable modalities exclude the use of audio-only telephone or facsimile.

## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[New Hampshire Board of Psychologists](#)

### What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

None identified.

However, New Hampshire's Psychology Practice Act states, "Persons licensed by the board who practice electronically shall be subject to standards of care for the practice of telemedicine and telehealth for psychology established by the board."

[N.H. REV. STAT. ANN. § 329:-B:16.](#)

### 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.



## NEW HAMPSHIRE

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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, per the statutory section regarding coverage of telemedicine services, acceptable modalities exclude the use of audio-only telephone or facsimile.

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[New Hampshire Board of Mental Health Practice](#)

**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)?**

Yes. New Hampshire licensure is required.

The New Hampshire Board of Mental Health Practice notes the following:

- “If you are located in New Hampshire and are providing mental health services to a consumer located in another jurisdiction, you are considered to be practicing in New Hampshire and need to be licensed in this State.”
- “If you are located in another state and are providing mental health services to a consumer located in New Hampshire, you are considered to be practicing in New Hampshire and need to be licensed in this State.”

[New Hampshire Board of Mental Health Practice, \*Statement of Interpretation of Statutory Authority: Out-of-State Practice \(2012\)\*](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.



## NEW HAMPSHIRE

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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, per the statutory section regarding coverage of telemedicine services, acceptable modalities exclude the use of audio-only telephone or facsimile.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[New Hampshire Board of Mental Health Practice](#)

**What are the restrictions on the scope of practice for counselors 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)?**

Yes. New Hampshire licensure is required.

The New Hampshire Board of Mental Health Practice notes the following:

- “If you are located in New Hampshire and are providing mental health services to a consumer located in another jurisdiction, you are considered to be practicing in New Hampshire and need to be licensed in this State.”
- “If you are located in another state and are providing mental health services to a consumer located in New Hampshire, you are considered to be practicing in New Hampshire and need to be licensed in this State.”

[New Hampshire Board of Mental Health Practice, \*Statement of Interpretation of Statutory Authority: Out-of-State Practice \(2012\)\*](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.



## NEW HAMPSHIRE

**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, per the statutory section regarding coverage of telemedicine services, acceptable modalities exclude the use of audio-only telephone or facsimile.

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[New Hampshire Board of Mental Health Practice](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

Yes. New Hampshire licensure is required.

The New Hampshire Board of Mental Health Practice notes the following:

- “If you are located in New Hampshire and are providing mental health services to a consumer located in another jurisdiction, you are considered to be practicing in New Hampshire and need to be licensed in this State.”
- “If you are located in another state and are providing mental health services to a consumer located in New Hampshire, you are considered to be practicing in New Hampshire and need to be licensed in this State.”

[New Hampshire Board of Mental Health Practice, \*Statement of Interpretation of Statutory Authority: Out-of-State Practice \(2012\)\*.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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, per the statutory section regarding coverage of telemedicine services, acceptable modalities exclude the use of audio-only telephone or facsimile.



## NEW HAMPSHIRE

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

#### What is the regulatory body in the state that governs the practice of advanced practice nursing?

[New Hampshire Board of Nursing](#)

#### What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

The New Hampshire Board of Nursing website provides the following guidance regarding telenursing:

- “The role of nursing is an integral component of telehealth practice. Telehealth nursing practice is defined as nursing practice using the nursing process to provide care for individual patients or defined patient populations over the phone or other electronic communication media. It is an emerging practice area in which the modalities of interaction are expanding and for which national standards for safe and effective practice are being developed. Among the current areas of nursing practice in telehealth are:
  - » telephone triage,
  - » health information and education,
  - » disease management, and
  - » interactive two-way video technology (i.e., home care).”
- “Nursing practice occurs within this area when the nurse utilizes the knowledge skill, judgment and critical thinking that is inherent in nursing education. Telephone triage is the safe, effective appropriate disposition of health-related problems by nurses by phone. Telephone triage may include:
  - » counseling
  - » crisis intervention
  - » disease management
  - » home treatment advice
  - » information brokering
  - » referral
  - » symptom assessment.”
- “Nurses employ decision support tools (protocols or guidelines) and the nursing process (assess, diagnose, plan, treat and evaluate). The goal of telephone triage is appropriate patient referral to the appropriate level of care within an appropriate period of time.”

In addition, the New Hampshire Board of Nursing recommends that institutions have certain practice criteria in place to perform telephone triage, which “include:

- Institutional policy and procedure including appropriate role/job descriptions
- Performance monitoring, competency assessment and quality improvement activities
- Written protocols or guidelines to guide telephone-nursing practice which are regularly reviewed and revised by appropriate stakeholders”

[New Hampshire Board of Nursing, \*Position Statement and Clinical Advisories Regarding the Role of the RN and LPN in Telehealth Nursing\* \(last visited Jan. 20, 2016\).](#)



## 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)?

Yes, but as provided below, there are exceptions to the requirement that nurses obtain New Hampshire licensure.

The following is a FAQ from the Board of Nursing's website:

“Are nurses required to have a NH nursing license or a license issued by another compact state in order to provide nursing advice via telephone triage system to clients located in another state?”

Nurses providing advice via telephone and physically present in New Hampshire must be licensed in the state of New Hampshire or have been issued a multi-state license from another compact state. Additional information that the nurse should provide to the patient is their name, licensure status and physical location. (Spring 2000)

Nurses calling New Hampshire residents from another state for purposes of telehealth must tell the New Hampshire resident their licensure status in the other state. A New Hampshire license is not required as long as the nurse has a license in the state they are calling from or hold a multi-state license.”

[New Hampshire Board of Nursing, \*Position Statement and Clinical Advisories Regarding the Role of the RN and LPN in Telehealth Nursing\* \(last visited Jan. 20, 2016\).](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes.

“An APRN shall have plenary authority to possess, compound, prescribe, administer, and dispense and distribute to clients controlled and non-controlled drugs within the scope of the APRN's practice.”

[N.H. REV. STAT. ANN. § 326-B:11.](#)

No conditions/limits regarding APRN prescribing via telemedicine were identified.

### 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, per the statutory section regarding coverage of telemedicine services, acceptable modalities exclude the use of audio-only telephone or facsimile.

## PRIVACY/CONFIDENTIALITY

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.



## NEW HAMPSHIRE

### MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

### FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

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?

None identified.

### 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.

“An insurer offering a health plan in [New Hampshire] may not deny coverage on the sole basis that the coverage is provided through telemedicine if the health care service would be covered if it were provided through in-person consultation between the covered person and a health care provider. . . . Nothing in this section shall be construed to prohibit an insurer from providing coverage for only those services that are medically necessary and subject to the terms and conditions of the covered person’s policy.” The definition of “telemedicine” detailed in the first row above (which excludes the use of audio-only telephone or fax) applies here.

[N.H. REV. STAT. ANN. § 415-J:3.](#)

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.



## NEW HAMPSHIRE

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

New Hampshire Medicaid is currently moving to a managed care model and enrolling recipients in one of two contracted managed care organizations (i.e., Well Sense Health Plan or New Hampshire Healthy Families).

The Well Sense Health Plan covers telemedicine. As part of this coverage, the plan requires that providers have an interactive audio and/or video telecommunications system that permits two-way, real-time communication between the member and provider or between two providers. When billing for telemedicine services, providers must use applicable modifiers listed in the telemedicine reimbursement policy, available at [wellsense.org](http://wellsense.org). The reimbursement policy provides that “[t]elemedicine services which meet these criteria must report services using modifier GT.”

[Well Sense Health Plan Provider Manual, Section 4.16 \(2013\)](#); [Well Sense Health Plan Reimbursement Guidelines \(2012\)](#).

The New Hampshire Healthy Families Plan does not include a telemedicine coverage policy in its provider or billing manuals.

[New Hampshire Healthy Families Provider Resources \(last visited March 24, 2016\)](#).

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

The term “controlled drugs” is defined as “any drug or substance, or immediate precursor, which is scheduled pursuant to RSA 318-B:1-a.” The referenced statutory section provides a process for the Commissioner of the Department of Health and Human Services to add, delete, or reschedule substances by rule. However, it appears that New Hampshire largely relies on the federal controlled substance schedule.

[N.H. REV. STAT. ANN. § 318-B:1](#); [New Hampshire Department of Health and Human Services, Controlled Substances \(last visited March 24, 2016\)](#).

#### What are the requirements/laws governing the prescribing of “controlled” substances?

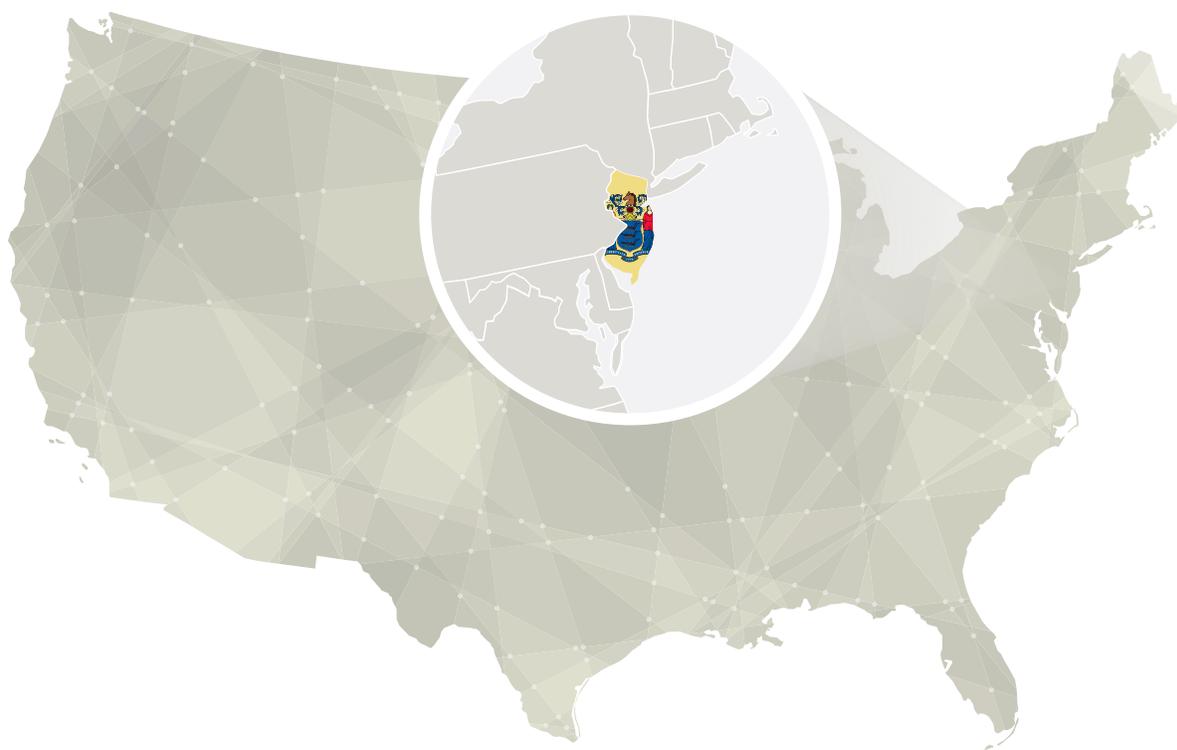
“An official written order for any controlled drug in schedule II shall be signed in triplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the controlled drug or drugs named therein. In the event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of 2 years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this chapter. It shall be deemed compliance with this section if the parties to the transaction have complied with the Comprehensive Drug Abuse Prevention and Control Act of 1970, as amended, or the federal food and drug laws, respecting the requirements governing the use of order forms.”

[N.H. REV. STAT. ANN. § 318-B:7](#).

All practitioners authorized to prescribe or dispense schedule II–IV controlled substances within the state of New Hampshire were required to register with the Controlled Drug Prescription Health and Safety Program no later than June 30, 2015.

[N.H. CODE R. Ph. 1503.01](#).

# NEW JERSEY





## NEW JERSEY

### What is the definition of “telemedicine” or “telehealth”?

“Telemedicine” does not appear to be generally defined by New Jersey statutes or regulations.

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

No general definitions of these terms were identified. However, with respect to New Jersey Medicaid, “telepsychiatry” is defined as “a psychiatric service provided by a psychiatrist or psychiatric advance practice nurse from a remote location over secure, two-way, interactive, audiovisual equipment” (see further detail in the Medicaid coverage section below).

[New Jersey Division of Medical Assistance and Health Services Newsletter, vol. 23, no. 21 \(Dec. 2013\).](#)

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[New Jersey Board of Medical Examiners](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes. New Jersey licensure is required, with limited exceptions.

While it appears that licensure is generally required for telemedicine practice, the New Jersey medical practice act’s prohibitory provisions (including its prohibition against the unlicensed practice of medicine) do not apply to “[a] physician or surgeon of another state of the United States and duly authorized under the laws thereof to practice medicine or surgery therein, if such practitioner does not open an office or place for the practice of his profession in [New Jersey].”

[N.J. STAT. ANN. § 45:9-21.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Board regulations state that the “patient-physician relationship” means “an association between a physician and patient wherein the physician owes a continuing duty to the patient to be available to render professional services consistent with his or her training and experience. The performance of any professional medical service including, but not limited to, the issuance of a prescription or authorization of a refill of a prescription is deemed to be a professional service and evidence of a patient-physician relationship.”

[N.J. ADMIN. CODE § 13:35-6.3.](#)



## NEW JERSEY

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

(a) Except as provided in (b) below, a practitioner shall not dispense drugs or issue prescriptions to an individual, pursuant to the requirements of this subchapter, without first having conducted an examination, which shall be appropriately documented in the patient record. As part of the patient examination, the practitioner shall:

1. Perform an appropriate history and physical examination;
2. Make a diagnosis based upon the examination and all diagnostic and laboratory tests consistent with good medical care;
3. Formulate a therapeutic plan and discuss such plan, along with the basis for the plan and the risks and benefits of various treatment options, with the patient; and
4. Ensure the availability of the physician or coverage for the patient for appropriate follow-up care.

(b) Notwithstanding (a) above, an examination of the patient's condition shall not be required prior to the dispensing of drugs or the issuance of a prescription under the following circumstances:

1. In admission orders for a newly hospitalized patient;
2. For a patient of another physician for whom the practitioner is taking calls;
3. For continuation medications on a short term basis for a new patient prior to the patient's first appointment;
4. For an established patient who, based on sound medical practice, the physician believes does not require a new examination before issuing a new prescription;
5. For a patient examined by a healthcare professional who is in collaborative practice with the practitioner; and
6. When treatment is provided by a practitioner for an emergency medical condition.

[N.J. ADMIN. CODE § 13:35-7.1A.](#)

"Practitioner" means any licensee subject to the regulatory authority of the Board who is authorized to prescribe or dispense drugs. Thus, the term "practitioner" includes physicians, podiatrists and, to the extent permitted by law and rule, registered residents, resident permit holders, physician assistants and certified nurse midwives.

[N.J. ADMIN. CODE § 13:35-7.1.](#)

### 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 do not appear to be specified.

## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[New Jersey Board of Psychological Examiners](#)



## NEW JERSEY

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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.

## SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[New Jersey Board of Social Work Examiners](#)

**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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.



## NEW JERSEY

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[New Jersey Professional Counselor Examiners Committee](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority? If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.



## NEW JERSEY

### MARRIAGE/FAMILY THERAPISTS

What is the regulatory body in the state that governs the practice of marriage/family therapy?

[New Jersey Board of Marriage and Family Therapy Examiners](#)

What are the restrictions on the scope of practice for marriage/family therapists 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)?

None identified.

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What is the regulatory body in the state that governs the practice of advanced practice nursing?

[New Jersey Board of Nursing](#)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

None identified.



## 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes, provided the applicable requirements are met (*see* [N.J. ADMIN. CODE § 13:37-7.9](#)).

The prescribing conditions/limits related to telemedicine below are the same as those included in the “Psychiatrists” section above. Per the definition of “practitioner” provided in that section, the same requirements appear to apply to APRNs.

- (a) Except as provided in (b) below, a practitioner shall not dispense drugs or issue prescriptions to an individual, pursuant to the requirements of this subchapter, without first having conducted an examination, which shall be appropriately documented in the patient record. As part of the patient examination, the practitioner shall:
1. Perform an appropriate history and physical examination;
  2. Make a diagnosis based upon the examination and all diagnostic and laboratory tests consistent with good medical care;
  3. Formulate a therapeutic plan and discuss such plan, along with the basis for the plan and the risks and benefits of various treatment options, with the patient; and
  4. Ensure the availability of the physician or coverage for the patient for appropriate follow-up care.
- (b) Notwithstanding (a) above, an examination of the patient’s condition shall not be required prior to the dispensing of drugs or the issuance of a prescription under the following circumstances:
1. In admission orders for a newly hospitalized patient;
  2. For a patient of another physician for whom the practitioner is taking calls;
  3. For continuation medications on a short term basis for a new patient prior to the patient’s first appointment;
  4. For an established patient who, based on sound medical practice, the physician believes does not require a new examination before issuing a new prescription;
  5. For a patient examined by a healthcare professional who is in collaborative practice with the practitioner; and
  6. When treatment is provided by a practitioner for an emergency medical condition.

[N.J. ADMIN. CODE § 13:35-7.1A.](#)

**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.



## NEW JERSEY

### PRIVACY/CONFIDENTIALITY

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.

### MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

However, the New Jersey Board of Psychological Examiners' regulations provide the following:

- “Unless otherwise ordered by a court, if the client is a minor, a parent or legal guardian will be deemed to be an authorized representative, as defined at N.J.A.C. 13:42-8.3(a). When the patient is more than 14 years of age, but has not yet reached the age of majority, the authorization shall be signed by the patient and by the patient’s parent or legal guardian, pursuant to N.J.S.A. 45:14B-36(e).”
- “Unless otherwise ordered by a court, at least one parent or guardian shall consent to the treatment of a minor. If one parent consents, a licensee may treat a minor even over the objection of the other parent.”
- “The provisions at N.J.A.C. 13:42-8.3, 8.4 and 8.5 shall apply to access to client records, access by a managed health care plan to information in client record and confidentiality of minors.”

[N.J. ADMIN. CODE § 13:42-8.6](#). (Note that nearly identical provisions are included in regulations issued by the Board of Marriage and Family Therapy Examiners ([N.J. ADMIN. CODE § 13:34-8.6](#)) and the Professional Counselor Examiners Committee ([N.J. ADMIN. CODE § 13:34-18.6](#)).

Further, New Jersey Board of Social Work Examiners' regulations provide that “[u]nless otherwise ordered by a court, at least one parent or guardian shall consent to the treatment of a minor. If one parent consents, a licensee may treat a minor even over the objection of the other parent.”

[N.J. ADMIN. CODE § 13:44G-10.11](#).

### FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

However, New Jersey Board of Medical Examiners' regulations provide that practitioners issuing prescriptions are required to assure “that appropriate follow-up is provided and that the effects of the drug are properly evaluated and integrated into the treatment plan for the patient.”

[N.J. ADMIN. CODE § 13:35-7.2](#).



## NEW JERSEY

**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?**

None identified.

### 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?**

No.

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

None identified.

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

According to a newsletter issued by the New Jersey Division of Medical Assistance & Health Services in December 2013, telepsychiatry may be utilized by mental health clinics and/or hospital providers of outpatient mental health services to meet their physician-related requirements, including, but not limited to, intake evaluations, periodic psychiatric evaluations, medication management and/or psychotherapy sessions for clients of any age. However, the following requirements must be met:

1. Telepsychiatry must meet all confidentiality requirements required in HIPAA and HITECH regulations. Sessions may not be recorded.
2. Consumers must provide informed consent to participate in any service utilizing telepsychiatry. Should a client choose not to participate, they must be made aware of other face to face options and services. If they choose to participate, the clients must be informed and aware of the location of the psychiatrist/APN providing the telepsychiatry service.
3. All telepsychiatry transmissions must be on a secure line which utilizes an encryption process that ensures confidentiality and the integrity of the information being transmitted.
4. The interactive audiovisual equipment must provide for two-way communication at a minimum bandwidth of 384 kbps (kilobits per second).
5. Telepsychiatry services must be provided from, and in, a location that is properly lit allowing for clear visual contact.



## NEW JERSEY

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

6. The Medicaid client must receive services at the mental health clinic or outpatient hospital program and the mental health clinic/hospital must bill for all services under their Medicaid provider number. The clinician cannot bill for services directly.
7. The psychiatrist or psychiatric APN may be off-site but must be a practitioner currently licensed to practice within the State of New Jersey. When consumers receiving telepsychiatry services are under the care of a multidisciplinary treatment team, the psychiatrist or psychiatric APN providing telepsychiatry services must have regular communication with them and be available for consultation.
8. All services shall be provided by practitioners operating under an affiliation agreement between providers and the independent clinic or outpatient hospital program that describes the program and practitioners' roles and responsibilities, as well as how telepsychiatry services will be coordinated between the facilities. When the provider is acting as the Medical Director, they must be contracted to provide these services.
9. In the event that the psychiatrist or psychiatric APN require a physical evaluation as part of their clinical assessment, the hosting provider shall have an RN available to complete and share the results of the physical evaluation.
10. The provider shall establish criteria to ensure authentication and identification of the Medicaid client participating in a telepsychiatry session. The provider shall ensure that the client has sufficient knowledge on how to operate any equipment before the session begins. They shall also ensure that staff is readily available to answer any technical questions or concerns the participant may have before, during or after the session.
11. All services shall be documented to show the provision of service was by telepsychiatry if applicable. The clinic or hospital program is responsible for maintaining all documentation of services for which they are the primary, billing provider. Off-site clinicians must have access to the client's chart with the ability to document the therapeutic services provided.
12. All services currently billed by an independent mental health clinic or outpatient hospital program as mental health services, provided by a psychiatrist or psychiatric APN, shall be eligible for provision by telepsychiatry except for group therapy. Hospitals shall utilize existing outpatient revenue codes and independent clinics shall bill using the appropriate HIPAA compliant HCPCS code with a GT modifier.
13. The mental health clinic and hospital providers are limited to billing for services permitted by the Division of Medical Assistance and Health Services.
14. Before any telepsychiatry services may be provided, each participating program shall establish policy and procedures which address all the areas noted in this newsletter. These policies and procedures must be reviewed and approved by the Division of Medical Assistance and Health Services (DMAHS), in consultation with the Division of Mental Health and Addiction Services (DMHAS) or the Children's System of Care (CSOC), depending on the program focus. Interested providers should contact their local Medical Assistance Customer Center (MACC) before providing telepsychiatry services.

All costs associated with the provision of telepsychiatry services including but not limited to the contracting of professional services and the telecommunication equipment are the responsibility of the provider and are not directly reimbursable by New Jersey Medicaid.

[New Jersey Division of Medical Assistance and Health Services Newsletter, vol. 23, no. 21 \(Dec. 2013\).](#)



## NEW JERSEY

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

“Controlled dangerous substance” means a drug, substance, or immediate precursor in Schedules I through V of article 2 of P.L.1970, c.226 (C.24:21-1 et seq.), as amended and supplemented. The term shall not include distilled spirits, wine, malt beverages, as those terms are defined or used in R.S.33:1-1 et seq., or tobacco and tobacco products.

[N.J. REV. STAT. § 24:21-2](#); see [N.J. REV. STAT. §§ 24:21-4 through 24:218.1](#)  
(describing the contents of each

#### What are the requirements/laws governing the prescribing of “controlled” substances”?

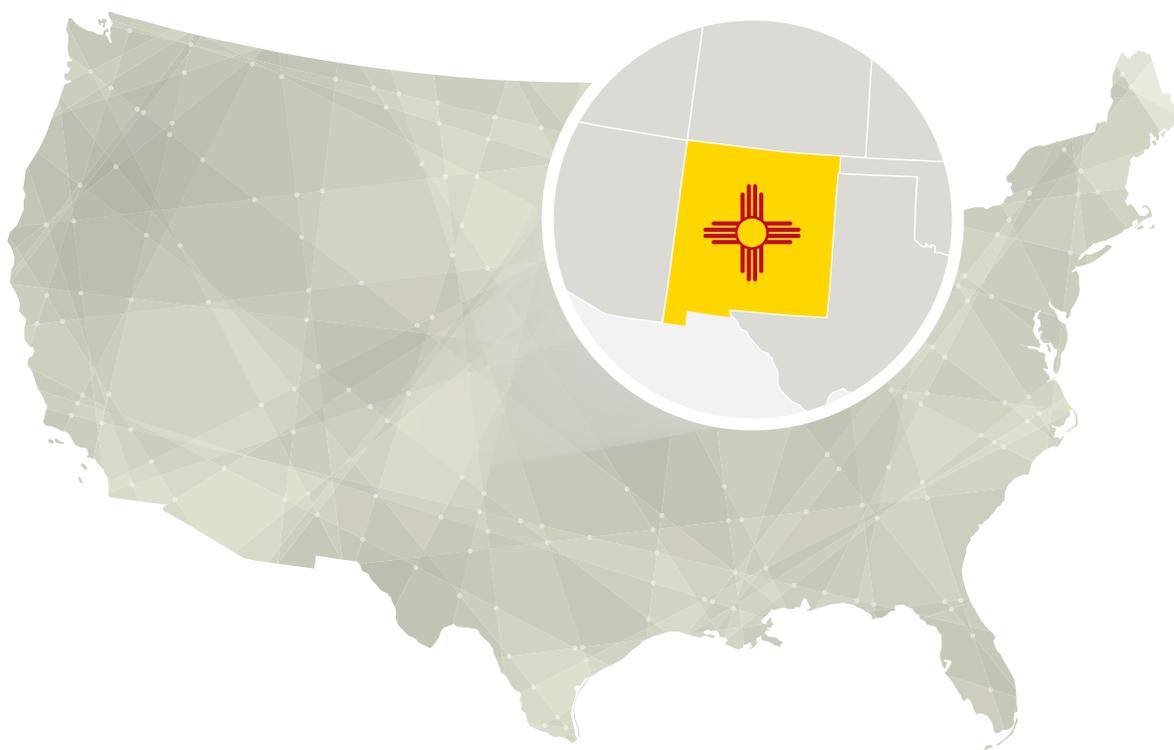
The New Jersey Controlled Dangerous Substances Act provides the following:

- a. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of his professional practice only, to an ultimate user, no controlled dangerous substance included in Schedule II, which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41), may be dispensed without the written prescription of a practitioner; provided that in emergency situations, as prescribed by the division by regulation, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist, if such oral prescription is authorized by federal law. Prescriptions shall be retained in conformity with the requirements of section 13 of P.L.1970, c.226 (C.24:21-13). No prescription for a Schedule II substance may be refilled.”
- b. Except when dispensed directly in good faith by a practitioner, other than a pharmacist, in the course of his professional practice only, to an ultimate user, no controlled dangerous substance included in Schedules III and IV which is a prescription drug as defined in section 2 of P.L.2003, c.280 (C.45:14-41) may be dispensed without a written or oral prescription. Such prescription may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription, unless renewed by the practitioner.
- c. No controlled dangerous substance included in Schedule V may be distributed or dispensed other than for a valid and accepted medical purpose.

[N.J. REV. STAT. § 24:21-15.](#)

For additional limitations related to prescribing controlled substances, see the New Jersey Board of Medical Examiners regulations at [N.J. ADMIN. CODE § 13:35-7.1 et seq.](#)

# NEW MEXICO





## NEW MEXICO

### What is the definition of “telemedicine” or “telehealth”?

None identified.

However, New Mexico uses the term “the practice of medicine across state lines” and defines it 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. ANN. § 61-6-6.](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[New Mexico Medical Board](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes.

The New Mexico Medical Board can issue a telemedicine license to allow the practice of medicine across state lines to an applicant who holds a full and unrestricted license to practice medicine in another state or territory of the United States.

A telemedicine license is issued for a period of no more than three years and may be renewed via application, payment of fees, etc., and compliance with other requirements.

[N.M. STAT. ANN. § 61-6-11.1.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a psychiatrist have prescribing authority?

#### If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

No telehealth-specific conditions/limits identified.



## NEW MEXICO

**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.

### PSYCHOLOGISTS

**What is the regulatory body in the state that governs the practice of psychology?**

[New Mexico Board of Psychologist Examiners](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**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 a licensed psychologist who holds a valid conditional prescription certificate.

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
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.](#)

No telehealth-specific conditions/limits identified.



## NEW MEXICO

**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.

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[New Mexico Board of Social Work Examiners](#)

**What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?**

Social workers who provide services via electronic media (such as computer, telephone, radio, and television) must inform patients of the limitations and risks associated with these services.

“Social workers shall take precautions to ensure and maintain the confidentiality of information transmitted to other parties through the use of computers, electronic mail, facsimile machines, telephones and telephone answering machines, and other electronic or computer technology.”

[N.M. CODE R. § 16.63.16.8.](#)

**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.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.



## 50-State Survey of Telemental/Telebehavioral Health

**NEW MEXICO****COUNSELORS**

**What is the regulatory body in the state that governs the practice of counseling?**

[New Mexico Board of Counseling and Therapy Practice](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority? If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

**MARRIAGE/FAMILY  
THERAPISTS**

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[New Mexico Board of Counseling and Therapy Practice](#)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

None identified.



## NEW MEXICO

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.

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What is the regulatory body in the state that governs the practice of advanced practice nursing?

[New Mexico Board of Nursing](#)

What are the restrictions on the scope of practice for APRNs 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)?

None identified.

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**NEW MEXICO**

**Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

No telehealth-specific conditions/limits identified.

**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.

### PRIVACY/CONFIDENTIALITY

**What are the specific privacy/confidentiality requirements involving mental health records?**

“The psychologist shall store and dispose of written, electronic, and other records in a manner that protects confidentiality.”

[N.M. CODE R. § 16.22.2.8.](#)

“The psychologist shall safeguard confidential information obtained in the course of practice, teaching, research, or other professional services. The psychologist shall disclose confidential information to others only with the written informed consent of the patient or client in accordance with the Public Health Act, Section 24-1-20 NMSA 1978, except as provided in these regulations.”

“The psychologist shall limit access to patient or client records to preserve the patient or client’s confidentiality and shall make effort to ensure that all persons working under the psychologist’s authority comply with the requirements for confidentiality of patient or client material.”

“The psychologist shall ensure that confidential information is not transmitted in any way that compromises confidentiality.”

[N.M. CODE R. § 16.22.2.12.](#)

**Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?**

None identified.

### MINORS

**What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?**

None identified.



## NEW MEXICO

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

**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?**

None identified.

### 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.

“An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state will allow covered benefits to be provided through telemedicine services. Coverage for health care services provided through telemedicine shall be determined consistent with coverage for health care services provided through in-person consultation.”

[N.M. Stat. Ann. § 59A-22-49.3.](#)

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

None identified.

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

“The telemedicine originating-site is the location of a [New Mexico medical assistance program, or “MAP”] eligible recipient at the time the service is being furnished via an interactive telemedicine communications system. The origination-site can be any medically warranted site. An interactive telemedicine communication system must include both interactive audio and video and be delivered on a real-time basis at the originating and distant-sites. Coverage for



## NEW MEXICO

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

services rendered through telemedicine shall be determined in a manner consistent with Medicaid coverage for health care services provided through in person consultation.”

The New Mexico Medical Assistance Division (MAD) will reimburse for services delivered through “store and forward.” Store-and-forward telemedicine includes encounters that do not occur in real time (asynchronous) and are consultations that do not require a face-to-face live encounter between a patient and a telemedicine provider.

[N.M. CODE R. § 8.310.2.11\(M\).](#)

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

New Mexico defines “controlled substance” as “a drug, substance or immediate precursor enumerated in Schedules I through V of the Controlled Substances Act.”

[N.M. STAT. ANN. § 26-1-2.](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances”?

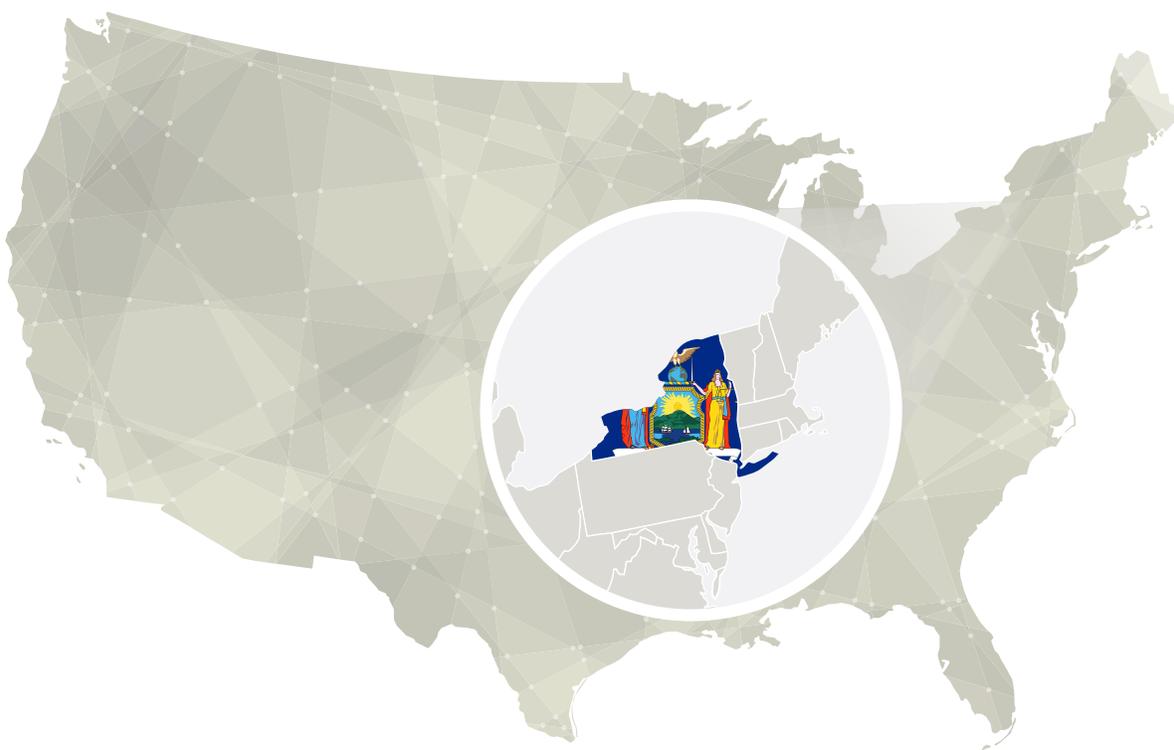
Among persons required to register are “practitioners,” including “a physician, doctor of oriental medicine, dentist, physician assistant, certified nurse practitioner, clinical nurse specialist, certified nurse-midwife, veterinarian, pharmacist, pharmacist clinician, certified registered nurse anesthetists, psychologists, chiropractic examiner, euthanasia technicians or other person licensed or certified to prescribe and administer drugs that are subject to the Controlled Substances Act. Practitioners, excluding veterinarians, must register with the New Mexico prescription monitoring program in conjunction with their controlled substance registration.”

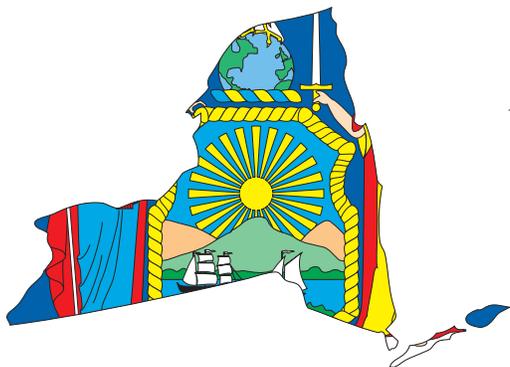
[N.M. CODE R. § 16.19.20.8.](#)

- A. A prescription for a controlled substance may be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice, and who is registered under the Controlled Substances Act. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.
- B. A prescription may not be issued in order for a practitioner to obtain controlled substances for supplying the practitioner for the purpose of general dispensing to patients.
- C. A prescription may not be issued for the dispensing of narcotic drugs listed in any schedule to a narcotic dependent person for the sole purpose of continuing his dependence upon such drugs.
- D. A prescription may not be issued for the dispensing of the narcotic drugs listed in any schedule to a narcotic drug-dependent person in the course of conducting an authorized clinical investigation in the development of a narcotic addict rehabilitation program.

[N.M. CODE R. § 16.19.20.41.](#)

# NEW YORK





## NEW YORK

### What is the definition of “telemedicine” or “telehealth”?

“Telehealth” means “the use of electronic information and communication technologies by telehealth providers to deliver health care services, which shall include the assessment, diagnosis, consultation, treatment, education, care management and/or self-management of a patient. Telehealth shall not include delivery of health care services by means of audio-only telephone communication, facsimile machines, or electronic messaging alone, though use of these technologies is not precluded if used in conjunction with telemedicine, store and forward technology, or remote patient monitoring. For purposes of this section, telehealth shall be limited to telemedicine, store and forward technology, and remote patient monitoring. This subdivision shall not preclude the delivery of health care services by means of “home telehealth” as used in section thirty-six hundred fourteen of this chapter.”

[N.Y. PUB. HEALTH LAW. §2999-cc.](#)

New York Medicaid regulations define “telemedicine” to mean the delivery of clinical health care services by means of real-time two-way electronic audiovisual communications that facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care, while the patient is at the originating site and the health care provider is at a distant site.

[N.Y. PUB. HEALTH LAW § 2805-u.](#)

The September 2011 edition of the *New York State Medicaid Update* publication defines “telemedicine” as “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. The distant site or ‘hub’ is where the medical specialist providing the consultation or service is located. The originating site or ‘spoke’ is where the referring health professional and patient are located.”

[New York State Department of Health, \*Expanded Coverage of Telemedicine\*, DOH Medical Updates \(2011\).](#)

The New York Board for Professional Medical Conduct’s Special Committee on Telemedicine (“N.Y. Telemedicine Committee”) has stated that “telemedicine” can be characterized as follows “[t]he geographic separation between two or more participants and/or entities engaged in health care,

[t]he use of telecommunication and related technology to gather, store and disseminate health-related information, and [t]he use of electronic interactive technologies to assess, diagnose and/or treat medical conditions.”

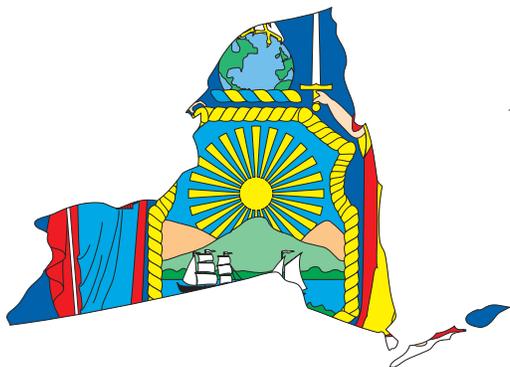
[New York State Department of Health, \*Statements on Telemedicine\* \(2009\).](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

A New York Office of the Professions *Practice Alert* states that “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.”

[New York Office of the Professions, \*Practice Alert: Telepractice\* \(last updated Dec. 17, 2013\)](#) (applies broadly to mental health practitioners).

The New York Board for Psychology guidelines define “telepractice” as providing service that is not “in person” and is facilitated through the use of technology. Such technology may include, but is not limited to, telephone, telefax, e-mail, internet, or videoconference.



## NEW YORK

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”? CONTINUED

[New York Board for Psychology, Guideline: Engaging in Telepractice \(last updated Mar. 14, 2011\)](#)  
(applies broadly to mental health practitioners, as this definition also appears on the websites for the New York Boards for Social Work and for Mental Health Practitioners).

### PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[New York State Education Department, Office of the Professions](#) (licensing)  
[New York Office of Professional Medical Conduct](#) (practice/discipline)

### What are the restrictions on the scope of practice for psychiatrists 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)?

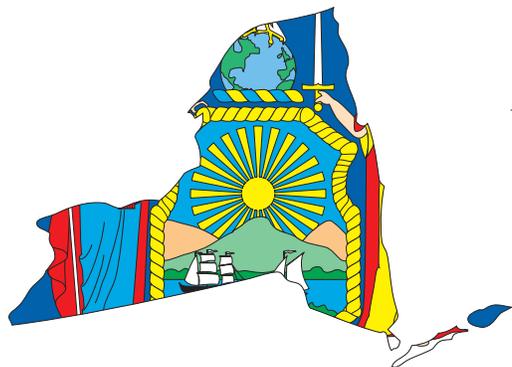
Yes. New York licensure is required, with limited exceptions.

According to the N.Y. Telemedicine Committee, “[i]t is the location of the patient that defines where the care has been delivered and the jurisdiction of applicable regulations.” Thus, physicians who practice or hold out to practice or engage in any physician-patient relationship in New York must be licensed and currently registered in New York. In addition, “[t]he practice of medicine through telemedicine in New York State by someone not authorized to practice in New York State may constitute the illegal practice of a profession, subject to investigation by the New York State Education Department and prosecution by the New York State Attorney General.”

However, “New York State Education Law, Article 131, Section 6526(3) does permit a physician not licensed in New York State to provide occasional consultation to a physician licensed and registered in New York State to assist in the care of a patient. The work of this committee is not intended to restrict or redefine permissible consultations now available to and utilized by New York State physicians.”

Also, New York requires that physicians display their license and current registration at the practice site and that patients or potential patients have access to that information for their view. Physicians are obliged to be identifiable to their patients and failure to provide verification of identity may be misconduct. A patient must have the ability to identify the physician at the point of access. Therefore, there must also be some form of identification/certification that the physician on the professional end is the licensed, currently registered physician who he or she purports to be.

[New York State Department of Health, Statements on Telemedicine \(2009\).](#)



## NEW YORK

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The N.Y. Telemedicine Committee has said that the following statement is a guiding principal in defining the criteria for the practitioner-patient relationship: “If a patient receives professional advice or treatment, even gratuitously, there is prima facie evidence that a physician-patient relationship exists.”

[New York State Department of Health, \*Statements on Telemedicine\* \(2009\).](#)

### Does a psychiatrist have prescribing authority?

#### If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

However, a physical examination of the patient is generally required prior to issuing a prescription for a controlled substance (see discussion below).

New York regulations provide that “[n]o controlled substance prescription shall be issued prior to the examination of the patient by the practitioner [with limited exceptions]. . . . Once the initial examination has been completed, the frequency and necessity for future examinations prior to prescribing, either for the same acute or chronic condition, will be made by the practitioner utilizing generally accepted medical standards, including taking into account the drug to be prescribed and the patient’s condition, history and disposition toward the use of controlled substances.”

New York regulations also detail when an authorized practitioner may prescribe a controlled substance for a patient in the temporary absence of the initial prescriber. The regulations also note that a practitioner may prescribe a controlled substance to his or her patient after review of the patient’s record if the record contains the result of an examination performed by a consulting physician or hospital and such record warrants the prescribing. Also, if a patient develops a new condition that would warrant the issuance of a prescription for a controlled substance, a practitioner may issue the prescription prior to performing an examination if: (1) the prescribing practitioner has a previously established practitioner/patient relationship with the patient; (2) an emergency exists; and (3) the prescription does not exceed a five-day supply, as determined by the directions for use. An emergency means that the immediate administration of the drug is necessary for the proper treatment of the patient and that no alternative treatment is available. If the practitioner prescribes such substance orally, the practitioner must comply with the requirements of sections 80.68 and 80.70 of Title 10. (See text of the regulations for further detail on the exceptions to the prior examination requirement.)

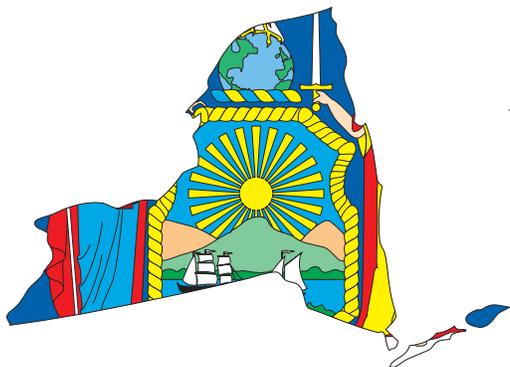
[N.Y. COMP. CODES R. & REGS. tit. 10, § 80.63.](#)

Physicians have been disciplined by the New York Office of Professional Medical Conduct for issuing prescriptions over the Internet without conducting a physical examination of the patient

### 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 shall not include delivery of health care services by means of audio-only telephone communication, facsimile machines, or electronic messaging alone.”

[N.Y. PUB. HEALTH LAW. §2999-cc.](#)



## NEW YORK

### PSYCHOLOGISTS

#### What is the regulatory body in the state that governs the practice of psychology?

[New York State Education Department, Office of the Professions](#) (licensing)  
[New York State Board for Psychology](#) (practice)

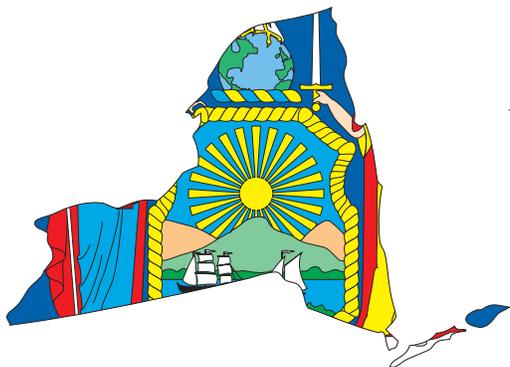
#### What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

None identified.

However, the New York Office of the Professions has stated that to engage in telepractice in an “effective, safe and legal manner,” licensed mental health professionals should (among other things):

- develop procedures for and obtain informed consent prior to providing remote services;
- ensure that informed consent includes both benefits and risks (patients should also be informed as to how they can verify the professional’s license);
- conduct an initial assessment of each client to determine whether the telepractice modality is appropriate, given the client’s treatment needs (if not, determine available alternatives and consider referrals);
- have a contingency plan for telecommunications failures (e.g., back-up means of contacting a patient);
- not practice outside the scope of their license and training;
- attend to issues of danger to themselves or others on duty to warn and protect situations, and to mandated reporting requirements in accordance with the law;
- make arrangements, as appropriate, in the consumer’s local area to address any emergency and crisis situations that may arise, and be knowledgeable of community resources that may be accessed in such situations;
- ensure the accuracy of advertising and public statements about telephone and online services offered without making statements that imply a level of treatment or effectiveness that is beyond what is actually provided;
- remain aware of the limitations of the online services provided and the technology used to offer these services;
- evaluate online services offered to ensure their effectiveness and to modify them, as needed, on the basis of outcome data to most effectively meet client needs;
- attend to cultural, ethnic, language, and other differences that may impact on their ability to effectively communicate with and treat clients;
- employ professional standards of practice that include adequate documentation and record keeping, adherence to termination and abandonment guidelines, and appropriate practices for fees and financial arrangements; and
- verify the client’s state of residence prior to providing telepractice services.

[New York Office of the Professions, Practice Alert: Telepractice \(last updated Dec. 17, 2013\)](#) (applies broadly to mental health practitioners).



## NEW YORK

### What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth? CONTINUED

Also, New York Board for Psychology practice guidelines state that mental health practitioners should consider the particular impact of telepractice on dimensions of mental health practice, including:

- awareness and assessment of non-verbal/non-written behavior;
- confidentiality and privacy of clients and their transmissions;
- relational and transferential issues;
- access issues such as distribution of computers and familiarity with technology;
- temporal factors such as simultaneous communication, time between responses, and formalized “sessions”;
- provisions for emergencies; and
- development of technological proficiencies and online culture/language.

[New York Board for Psychology, \*Guideline: Engaging in Telepractice\* \(last updated Mar. 14, 2011\)](#)

(also applies broadly to mental health practitioners as this same guidance appears on the websites for the New York Boards for Social Work and for Mental Health Practitioners).

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Yes. New York licensure is required.

A New York Board for Psychology guideline on “telepractice” provides that “[p]ractice as a licensed professional in New York State, even though telepractice, requires the practitioner to be licensed or otherwise authorized to practice in New York. Telepractice, when used as a form of mental health practice, is subject to all practice and ethical considerations discussed in this document and in the law, rules and regulations governing licensed practice in New York State.”

[New York Board for Psychology, \*Guideline: Engaging in Telepractice\* \(last updated Mar. 14, 2011\)](#)

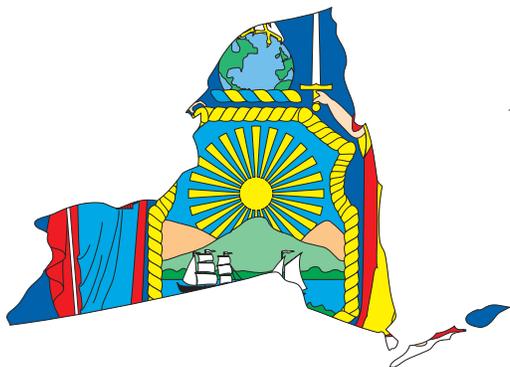
(applies broadly to mental health practitioners as this same guidance appears on the websites for the New York Boards for Social Work and for Mental Health Practitioners).

Also, a 1999 New York State Education Department letter on “telepractice” in general states that “full [New York] licensure and current registration are required of *any professional* who practices in New York State. All New York State licensed professionals are responsible for adhering to the same laws, rules and regulations and for upholding the same standards and competencies when engaging in telepractice as they are when practicing without the use of technology over a distance” (emphasis added).

[New York State Education Department, \*Telepractice Letter\* \(1999\).](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.



## NEW YORK

**Does a psychologist have prescribing authority?  
If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.  
[N.Y. EDUC. LAW § 7606.](#)

**What are the acceptable modalities (e.g., telephone, video) for the practice psychology of via telemedicine/telehealth that meet the standard of care for the state?**

None identified.

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[New York State Education Department, Office of the Professions](#) (licensing)  
[New York State Board for Social Work](#) (practice)

**What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?**

None identified.

See applicable telepractice guidance in Psychologists section above, which applies broadly to psychologists, social workers, mental health counselors, and marriage and 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)?**

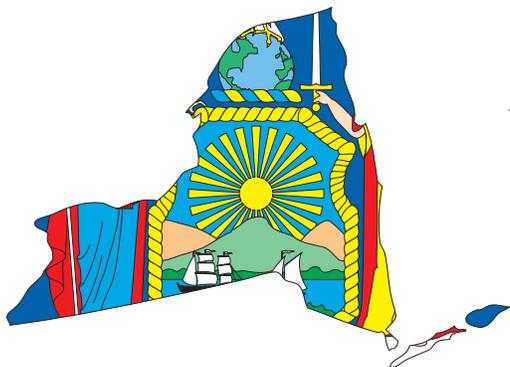
Yes. New York licensure is required.  
See Psychologists section above.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.  
[N.Y. EDUC. LAW § 7708.](#)



## NEW YORK

**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.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[New York State Education Department, Office of the Professions](#) (licensing)

[New York State Board for Mental Health Practitioners](#) (practice)

**What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?**

None identified.

*See applicable telepractice guidance in Psychologists section above, which applies broadly to psychologists, social workers, mental health counselors, and marriage and 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)?**

Yes, New York licensure is required.

*See Psychologists section above.*

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

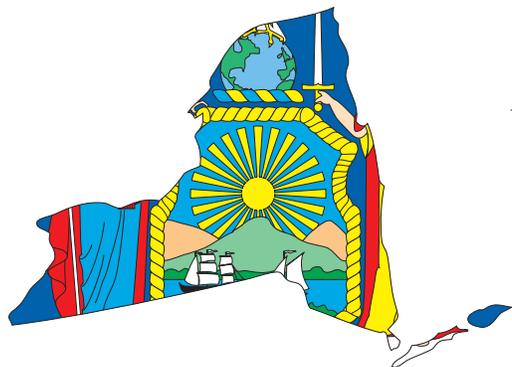
**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

[N.Y. EDUC. LAW § 8407.](#)

**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.



## NEW YORK

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[New York State Education Department, Office of the Professions](#) (licensing)  
[New York State Board for Mental Health Practitioners](#) (practice)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

None identified.

See applicable telepractice guidance in the “Psychologists” section above, which applies broadly to psychologists, social workers, mental health counselors, and marriage and 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)?**

Yes. New York licensure is required.

See Psychologists section above.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

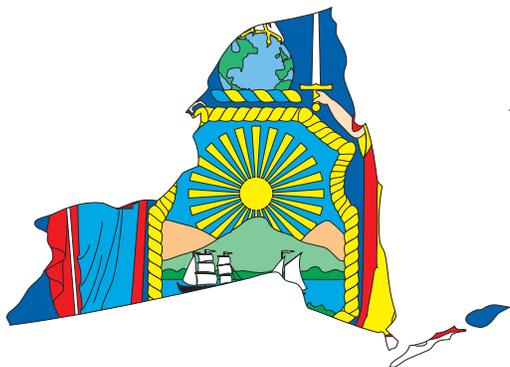
**Does a marriage/family therapist have prescribing authority?  
 If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

[N.Y. EDUC. LAW § 8407.](#)

**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.



## NEW YORK

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

#### What is the regulatory body in the state that governs the practice of advanced practice nursing?

[New York State Education Department, Office of the Professions](#) (licensing)  
[New York State Board of Nursing](#) (practice issues)

#### What are the restrictions on the scope of practice for APRNs 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)?

Yes. New York licensure is required.  
 See “Psychologists” section above.

#### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

#### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes, subject to the requirements/restrictions noted below.

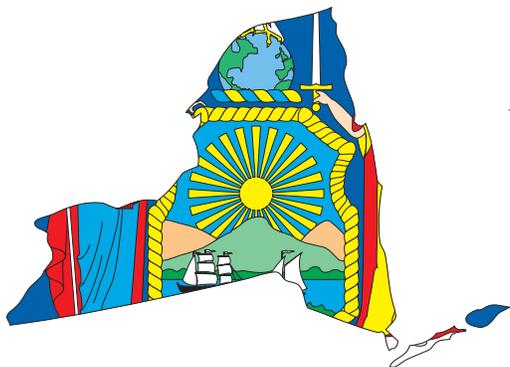
A physical examination of the patient is generally required before an APRN (e.g., a nurse practitioner (“NP”)) can issue a prescription for a controlled substance.

NPs may issue prescriptions for drugs, devices, and immunizing agents in accordance with their practice agreement and practice protocols. NPs must obtain a certificate from the New York Education Department upon successfully completing a program, including an appropriate pharmacology component, or its equivalent, prior to prescribing. “The certificate issued under section [6910] shall state whether the [NP] has successfully completed such a program or equivalent and is authorized to prescribe under this paragraph.”

[N.Y. EDUC. LAW § 6902\(3\)\(a\)\(ii\).](#)

NPs must complete the following tasks in order to prescribe medications:

- Obtain a National Provider Identifier (NPI) issued by the Centers for Medicare & Medicaid Services. (Federal law requires that health care providers (including NPs) use NPIs on electronic health care transactions—i.e., processing claims, status inquiries, eligibility inquiries).



## NEW YORK

### Does an APRN have prescribing authority?

If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth? CONTINUED

- Obtain a federal Drug Enforcement Administration (DEA) registration number issued by the U.S. Department of Justice's Drug Enforcement Administration. (An NP must obtain a DEA number in order to prescribe or dispense controlled substances.)
- Obtain New York State official prescription forms or authorization to prescribe controlled substances from the New York State Department of Health. (An NP must obtain official prescription forms to prescribe controlled substances.)

[New York State Nursing Board, \*Practice Information: Prescription Privileges\* \(2013\).](#)

Also, according to a New York State Nursing Board FAQ, "New York law authorizes nurse practitioners to prescribe or dispense controlled substance (from Schedules II through IV) for the treatment of patients only within the specialty area of practice for which they have been certified by the New York State Education Department. In addition, federal law appears to prohibit NPs from prescribing Suboxone for treating drug dependence."

[New York State Nursing Board, \*Frequently Asked Practice Questions\* \(last updated Oct. 15, 2015\).](#)

### 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?

None identified.

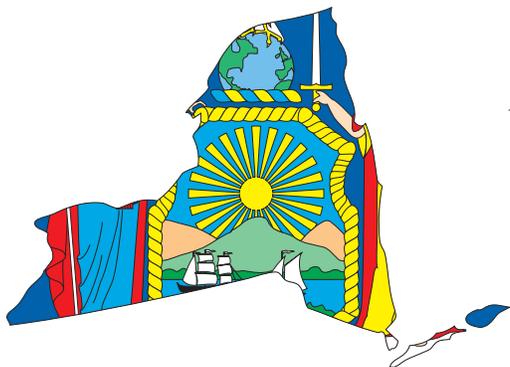
## PRIVACY/CONFIDENTIALITY

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.

However, a New York Office of the Professions *Practice Alert* cautions mental health practitioners about the confidentiality concerns that telepractice entails. Specifically, the *Practice Alert* notes that there are security/confidentiality risks in using cell phones, e-mails, and text messages as modes of communication, and states that patients should be informed of such risks. The *Practice Alert* also provides advice for practitioners using videoconferencing, including verifying that data is encrypted and secure to protect the confidentiality of patient information.

[New York Office of the Professions, \*Practice Alert: Telepractice\* \(last updated Dec. 17, 2013\).](#)



## NEW YORK

### MINORS

#### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

However and more generally, when providing outpatient mental health services to a minor, the important role of the parents or guardians must be recognized. As clinically appropriate, steps must be taken to actively involve the parents or guardians, and the consent of such persons is required for such treatment in non-emergency situations, except as provided in the statute.

With respect to these exceptions, a mental health practitioner (meaning a physician, a licensed psychologist, or persons providing services under the supervision of a physician in a facility operated or licensed by the Office of Mental Health) may provide outpatient mental health services, other than those treatments and procedures for which consent is specifically required by law, “to a minor voluntarily seeking such services without parental or guardian consent if the mental health practitioner determines that:

1. the minor is knowingly and voluntarily seeking such services; and
2. provision of such services is clinically indicated and necessary to the minor’s well-being; and
3.
  - (i) a parent or guardian is not reasonably available (meaning a parent or guardian cannot be contacted with diligent efforts by a mental health practitioner); or
  - (ii) requiring parental or guardian consent or involvement would have a detrimental effect on the course of outpatient treatment; or
  - (iii) a parent or guardian has refused to give such consent and a physician determines that treatment is necessary and in the best interests of the minor.

The mental health practitioner shall fully document the reasons for his or her determinations. Such documentation shall be included in the minor’s clinical record, along with a written statement signed by the minor indicating that he or she is voluntarily seeking services.

A mental health practitioner may provide a minor voluntarily seeking outpatient services an initial interview without parental or guardian consent or involvement to determine whether the criteria listed in the bullet above are present.”

[N.Y. MENTAL HYG. LAW § 33.21.](#)

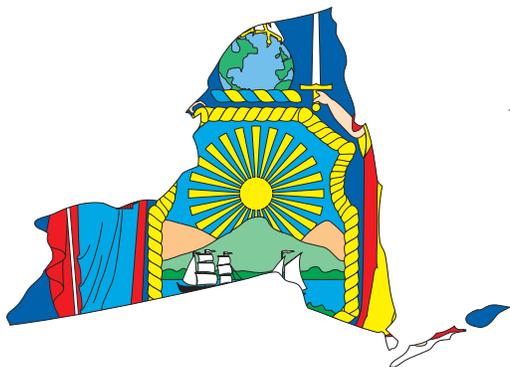
### FOLLOW-UP CARE

#### What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

However, the N.Y. Telemedicine Committee has stated that physicians have “a duty to be available for care when it is needed or to see that there is a reliable provision for care and advice. The fact that the advice or treatment occurred via electronic media does not change the requirement for follow-up care.”

[New York State Department of Health, \*Statements on Telemedicine\* \(2009\).](#)



## NEW YORK

**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?**

None identified.

### 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.

“An insurer shall not exclude from coverage a service that is otherwise covered under a policy 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 an insurer may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the policy. An insurer 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. An insurer 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. § 3217-h.](#)

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

No.

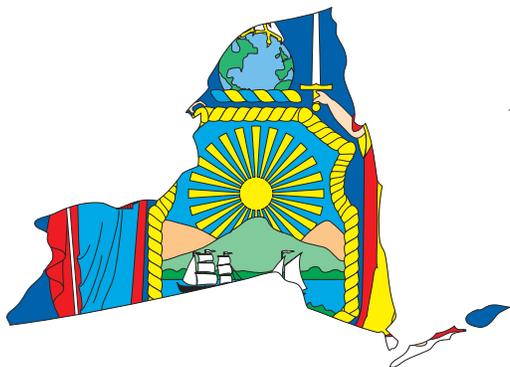
**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

“[New York] Medicaid will reimburse for consultations provided by a psychiatrist through an audio/visual link as well as ongoing therapy provided by a psychiatrist. As with all other telemedicine services, if the originating ‘spoke’ site is an Article 28 facility (hospital outpatient department or diagnostic and treatment center), the ‘spoke’ site is directly responsible for all patient care, and is also required to credential and privilege the psychiatrist who is located at the distant ‘hub’ site. . . . In addition to psychiatric consultations, ongoing therapy provided by the psychiatrist at the distant ‘hub’ site may be billed to Medicaid.”

Telemedicine “hub” sites include Article 28 hospitals, Article 28 diagnostic and treatment centers (D&TCs), and federally qualified health centers (FQHCs) that have “opted into” ambulatory patient groups (APGs).

Telemedicine originating “spoke” sites include Article 28 hospitals (emergency room, outpatient department, inpatient), Article 28 D&TCs, and FQHCs that have “opted into” APGs and non-FQHC school-based health centers (SBHCs).



## NEW YORK

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

Practitioners who may provide telemedicine services at the “hub” site comprise (among others) physician specialists (including psychiatrists).

Telemedicine consultations are covered when medically necessary and the following requirements are met:

- The patient is physically present at the originating “spoke” site; the physician specialist is located at the “hub” site.
- The physician specialist at the “hub” site who is performing the consult is licensed in New York State, enrolled in New York State Medicaid, and credentialed and privileged at both the “hub” and “spoke” site hospital and/or D&TC.
- The request and medical need for the telemedicine consult and the findings of the consulting physician are documented in the patient’s medical record.
- The telemedicine consultation is in “real time” and provided via a fully interactive, secure two-way audio visual telecommunication system (“store and forward” is not covered by Medicaid).

See link below for further detail on relevant credentialing and privileging requirements and specific coding guidance related to Medicaid reimbursement.

[New York State Department of Health, \*Expanded Coverage of Telemedicine, DOH Medical Updates \(2011\)\*.](#)

Coverage of telemedicine services by Medicaid managed care (MMC) plans is optional in New York. However, according to a July 2015 publication on state telehealth laws and Medicaid program policies, a “review of Web resources of 18 MMC Plans reveals policy statements of telemedicine coverage for at least the following insurance providers:

- Amerigroup New York
- BlueCross Blue Shield of Western New York
- MVP Health Plan
- United Healthcare
- Univera Community Health
- WellCare of New York”

[Center for Connected Health Policy, \*State Telehealth Laws and Reimbursement Policies \(July 2015\)\*.](#)

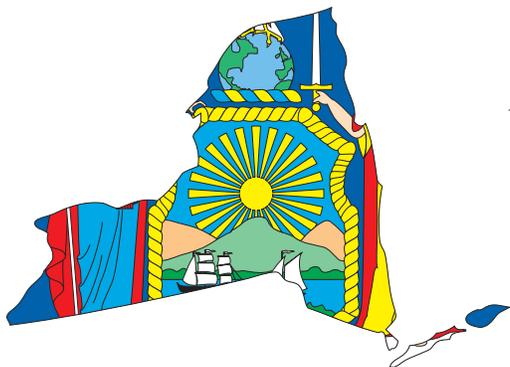
## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

“Controlled substance” means a substance or substances listed in Section 3306 of this chapter.

Per Section 3306, there are five schedules of controlled substances:

- Schedule I – see list of specified opiates, opium derivatives, hallucinogenic substances, and depressants
- Schedule II – see list of substances produced by extraction from substances of vegetable origin or by means of chemical synthesis (or by a combination of the two), specified opiates, stimulants, depressants, hallucinogenic substances, and anabolic steroids



## NEW YORK

### How are “controlled substances” defined by the state? CONTINUED

- Schedule III – see list of specified stimulants, depressants, and narcotic drugs
- Schedule IV – see list of specified stimulants, depressants, and narcotic drugs
- Schedule V – see list of specified stimulants, depressants, and narcotic drugs

[N.Y. PUB. HEALTH LAW §§ 3302 & 3306.](#)

### What are the requirements/laws governing the prescribing of “controlled” substances”?

Prior to prescribing for, or dispensing to, a patient any controlled substance listed on schedule II, III, or IV of section 3306 of the Public Health Law, every practitioner must consult the prescription monitoring program registry for the purpose of reviewing that patient’s controlled substance history. The patient’s controlled substance history must be obtained no more than 24 hours prior to the practitioner prescribing or dispensing any controlled substance to that patient. A practitioner must document such consultation in the patient’s medical chart or, if the practitioner does not consult the prescription monitoring program registry, the practitioner must document in the patient’s medical chart the reason such consultation was not performed. Such documentation must include the specific exception listed in the regulation. (See text of regulation for list of exceptions.)

No controlled substance prescription will be issued prior to the examination of the patient by the practitioner, with limited exceptions. See further detail on this point above in the section on prescribing by a psychiatrist via telemedicine.

[N.Y. COMP. CODES R. & REGS. tit. 10, § 80.63.](#)

A prescription for a controlled substance may be issued only by a practitioner who is (1) authorized to prescribe controlled substances pursuant to his licensed professional practice, and (2) either registered under the Federal Controlled Substances Act and in possession of a registration number from the DEA, U.S. Department of Justice, or its successor agency, or exempted from such registration as an exempt official.

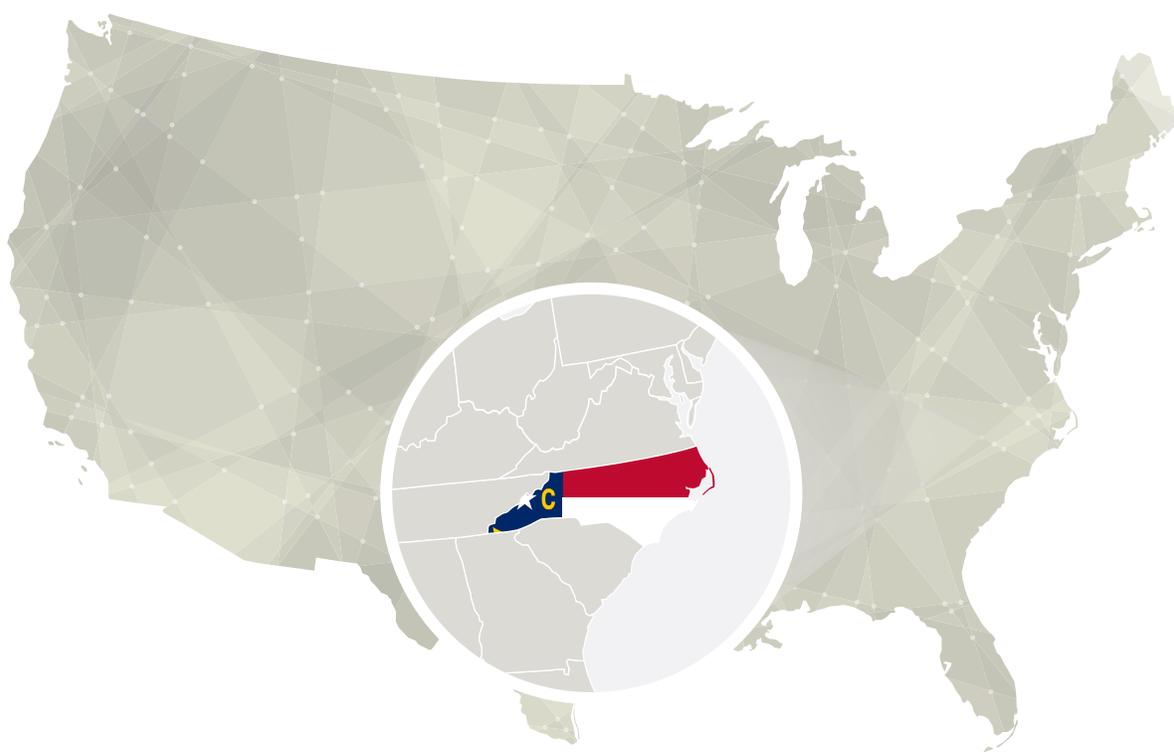
A practitioner issuing an electronic prescription for a controlled substance must (1) use an electronic prescribing application that is consistent with federal requirements, and (2) register the certified electronic prescribing application with the New York State Department of Health’s Bureau of Narcotic Enforcement.

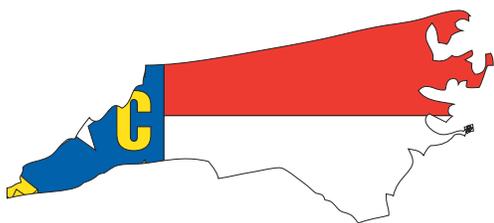
[N.Y. COMP. CODES R. & REGS. tit. 10, § 80.64.](#)

New York originally set a March 2015 implementation date by which all prescriptions (including prescriptions for non-controlled substances) issued in New York State had to be electronically transmitted, with certain limited exceptions. On March 13, 2015, Governor Andrew Cuomo and the New York State Legislature amended the Public Health Law and the Education Law to extend the implementation date for mandatory electronic prescribing to March 27, 2016.

[New York State Department of Health, \*Narcotic Enforcement: Laws and Regulations\* \(last updated Mar. 2015\).](#)

# NORTH CAROLINA





## 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 \(Nov. 2014\).](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[North Carolina Medical Board](#)

### What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

“[L]icensees practicing via telemedicine will be held to the same standard of care as licensees employing more traditional in-person medical care. A failure to conform to the appropriate standard of care, whether that care is rendered in-person or via telemedicine, may subject the licensee to potential discipline by this Board. It is the Board’s position that there is not a separate standard of care applicable to telemedicine. Telemedicine providers will be evaluated according to the standard of care applicable to their area of specialty. Additionally, telemedicine providers are expected to adhere to current standards for practice improvement and monitoring of outcomes.”

[North Carolina Medical Board, Position Statement: Telemedicine \(Nov. 2014\).](#)

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

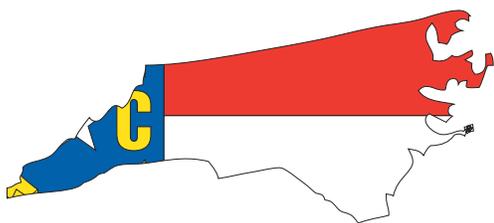
The practice of medicine is deemed to occur in the state in which the patient is located. Therefore, any licensee using telemedicine to regularly provide medical services to patients located in North Carolina should be licensed to practice medicine in North Carolina. Licensees need not reside in North Carolina, assuming they have a valid, current North Carolina license.

[North Carolina Medical Board, Position Statement: Telemedicine \(Nov. 2014\).](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“The licensee using telemedicine should verify the identity and location of the patient and should be prepared to inform the patient of the licensee’s name, location and professional credentials. A diagnosis should be established through the use of accepted medical practices, i.e., a patient history, mental status evaluation, physical examination and appropriate diagnostic and laboratory testing. Licensees 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.”

[North Carolina Medical Board, Position Statement: Telemedicine \(Nov. 2014\).](#)



## NORTH CAROLINA

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

The Board has concluded that prescribing controlled substances for the treatment of pain by means of telemedicine is not consistent with the standard of care. Thus, licensees prescribing controlled substances by means of telemedicine for other conditions should obey all relevant federal and state laws.

[North Carolina Medical Board, Position Statement: Telemedicine \(Nov. 2014\).](#)

### 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?

None identified.

## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[North Carolina Psychology Board](#)

### What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

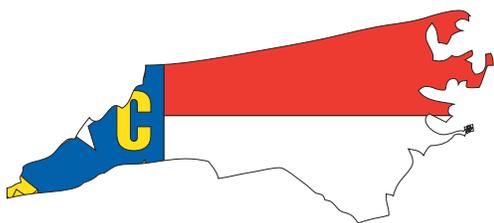
None identified.

However, the North Carolina Psychology Board “has confirmed that it has no separate view per se with regard to provision of services via electronic means. As long as a licensee is practicing in a manner consistent with his/her training and experience, and is receiving supervision as is appropriate, the medium for doing so is not at issue.” It is up to the psychologist to recognize that as he or she moves away from direct contact with clientele, the psychologist “incrementally loses much of the richness of interaction which, as any psychologist knows, comes with traditional face-to-face contact in an individual session with a client.”

Services delivered “by technology-assisted media such as telephone, use of video, and the [I]nternet obligate the psychologist to carefully consider and address a myriad of issues in the areas of structuring the relationship, informed consent, confidentiality, determining the basis for professional judgments, boundaries of competence, computer security, avoiding harm, dealing with fees and financial arrangements, and advertising.”

Challenges include “verifying the identity of the client, determining if a client is a minor, explaining to clients the procedure for contacting the psychologist when he or she is off-line, and discussing the possibility of technology failure and alternative modes of communication if that failure occurs.” The Advisory Statement lists other challenges.

[North Carolina Psychology Board, Advisory Statement: Provision of Services Via Electronic Means \(Mar. 2005\).](#)



## NORTH CAROLINA

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

The Board considers that the practice of psychology occurs both where the psychologist who is providing therapeutic services is located and where the individual who is receiving the service is located. To provide psychological services in North Carolina, the individual must be licensed by the Psychology Board or be exempt under the Psychology Practice Act.

[North Carolina Psychology Board, Advisory Statement: Provision of Services Via Electronic Means \(Mar. 2005\)](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

No.

### 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.

## SOCIAL WORKERS

### What is the regulatory body in the state that governs the practice of social work?

[North Carolina Social Work Certification and Licensure Board](#)

### What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

None identified.

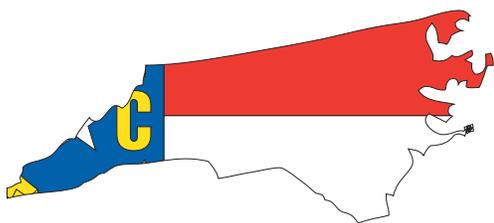
The North Carolina Social Work practice statute defines “clinical social work practice” to mean “the professional application of social work theory and methods to the biopsychosocial diagnosis, treatment, or prevention, of emotional and mental disorders. Practice includes, by whatever means of communications, 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.](#)

Given that the definition of general social work practice and clinical social work practice in North Carolina includes the phrase “by whatever means of communications,” the Board takes the position that technology-facilitated services are one of several means of providing professional services, and those providing services through this means are fully subject to the statutes and rules governing social work practice.

Note that the appropriate supervision of provisional licensees providing clinical social work services to satisfy the requirements of a licensed clinical social worker (LCSW) must be done in-person. The Board does not “consider delivery of supervision via telemed, webcasting, skype or other similar audio/video broadcast to be acceptable in satisfying the requirement for in person supervision.”

[North Carolina Social Work Certification & Licensure Board, Position Statement: Technology Facilitated Services \(2012\).](#)



## NORTH CAROLINA

**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.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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, the North Carolina Social Work Certification & Licensure Board position statement on the use of technology-facilitated services indicates that “while [the position statement] 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: Technology Facilitated Services \(2012\).](#)

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[North Carolina Board of Licensed Professional Counselors](#)

**What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?**

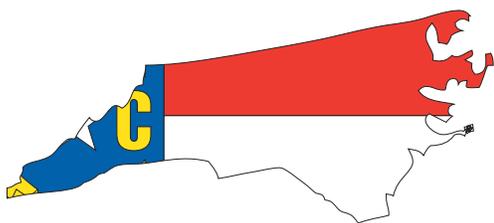
None identified.

**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.



## NORTH CAROLINA

**Does a counselor have prescribing authority? If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[North Carolina Marriage and Family Therapy Licensure Board](#)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

None identified.

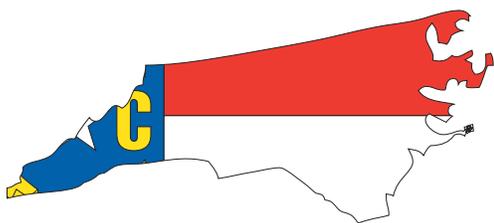
However, the North Carolina Marriage and Family Therapy Licensure Board position statement regarding provision of services via electronic means provides the following:

“[T]he Board has confirmed that that it has no separate view per se with regard to provision of services via electronic means. As long as a licensee is practicing in a manner consistent with his/her training and experience, and is receiving supervision as is appropriate, the medium for doing so is not at issue.” It is up to the therapist to recognize that as he or she moves away from direct contact with clients, the therapist “incrementally loses much of the richness of interaction which, as any therapist knows, comes with traditional face-to-face contact in an individual session with a client.”

Services delivered “by technology-assisted media such as telephone, use of video, and the [I]nternet obligate the therapist in the areas of structuring the relationship, informed consent, confidentiality, determining the basis for professional judgments, boundaries of competence, computer security, avoiding harm, dealing with fees and financial arrangements, and advertising.”

Challenges include “verifying the identity of the client, determining if a client is a minor, explaining to clients the procedure for contacting the therapist when he or she is off-line, and discussing the possibility of technology failure and alternative modes of communication if that failure occurs. The Position Statement lists other challenges.”

[North Carolina Marriage & Family Therapy Licensure Board, Position Statement: Provision of Services via Electronic Means \(Aug. 2012\).](#)



## NORTH CAROLINA

**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?**

The Board considers that the practice of marriage and family therapy occurs both where the therapist who is providing therapeutic services is located and where the individual who is receiving the service is located. In order for an individual to provide marriage and family therapy services in North Carolina, that individual must be licensed by the North Carolina Marriage and Family Therapy Licensure Board or be exempt under the North Carolina Marriage and Family Therapy Licensure Act.

[North Carolina Marriage & Family Therapy Licensure Board, Position Statement: Provision of Services via Electronic Means \(Aug. 2012\).](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

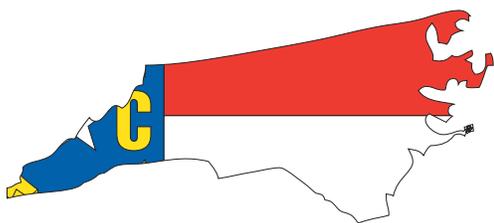
[North Carolina Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.



## NORTH CAROLINA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes.

No telehealth-specific conditions/limits identified.

### 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.

## PRIVACY/CONFIDENTIALITY

### What are the specific privacy/confidentiality requirements involving mental health records?

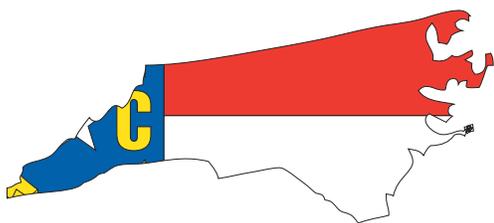
“Physicians have both a legal and ethical obligation to retain patient records. The Board, therefore, recognizes the necessity and importance of a licensee’s proper maintenance, retention, and disposition of medical records. The following guidelines are offered to assist licensees in meeting their ethical and legal obligations:

- State and federal laws require that records be kept for a minimum length of time including but not limited to:
  1. Medicare and Medicaid Investigations (up to 7 years);
  2. HIPAA (up to 6 years);
  3. Medical Malpractice (varies depending on the case but should be measured from the date of the last professional contact with the patient)—physicians should check with their medical malpractice insurer); North Carolina has no statute relating specifically to the retention of medical records;
  4. Immunization records always must be kept.”

[North Carolina Medical Board, Position Statement: Retention of Medical Records \(rev. May 2015\)](#)

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.



## NORTH CAROLINA

### MINORS

**What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?**

None identified.

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

**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?**

None identified.

### 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.

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

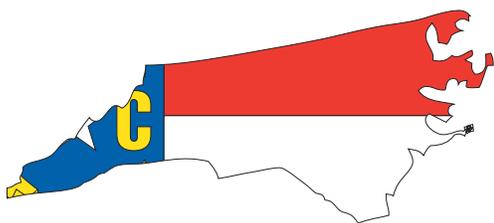
None identified.

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

Medicaid and NC Health Choice cover telemedicine and telepsychiatry services “when medically necessary under all of the following conditions:

- a. The beneficiary shall be present at the time of consultation.
- b. The medical examination of the beneficiary must be under the control of the consulting provider.



## NORTH CAROLINA

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

- c. The distant site of the service(s) must be of a sufficient distance from the originating site to provide service(s) to a beneficiary who does not have readily available access to such specialty services.
- d. The consultation must take place by two-way real-time interactive audio and video telecommunications system.

**Note:** The licensed provider using telemedicine or telepsychiatry services shall ensure the availability for appropriate follow-up care and maintain a complete health record that is available to the beneficiary and other treating providers.”

#### “Limitations or Requirements

- a. The beneficiary shall be present at the time of consultation.
- b. The telecommunications must permit encrypted real-time interactive audio and video communication with the consulting provider.
- c. The referring provider participates in the service as appropriate to meet the medical needs of the beneficiary.
- d. Up to three different consulting providers may be reimbursed for a separately identifiable Telemedicine or Telepsychiatry service provided to a beneficiary per date of service.
- e. Only one facility fee is allowed per date of service ‘per beneficiary.’
- f. There is no reimbursement to the referring provider at the originating site on the same date of service unless the referring provider is billing for a separately identifiable billable service. Health records must document that all of the components of the service being billed were provided to the beneficiary.
- g. These services are subject to the same restrictions as face-to-face contacts (e.g., place of service, allowable providers, multiple service limitations, prior authorization).”

[North Carolina Division of Medical Assistance, Telemedicine and Telepsychiatry Clinical Coverage Policy \(Oct. 2015\).](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

The North Carolina Controlled Substances Act defines “controlled substance” as “a drug, substance, or immediate precursor included in Schedules I through VI.”

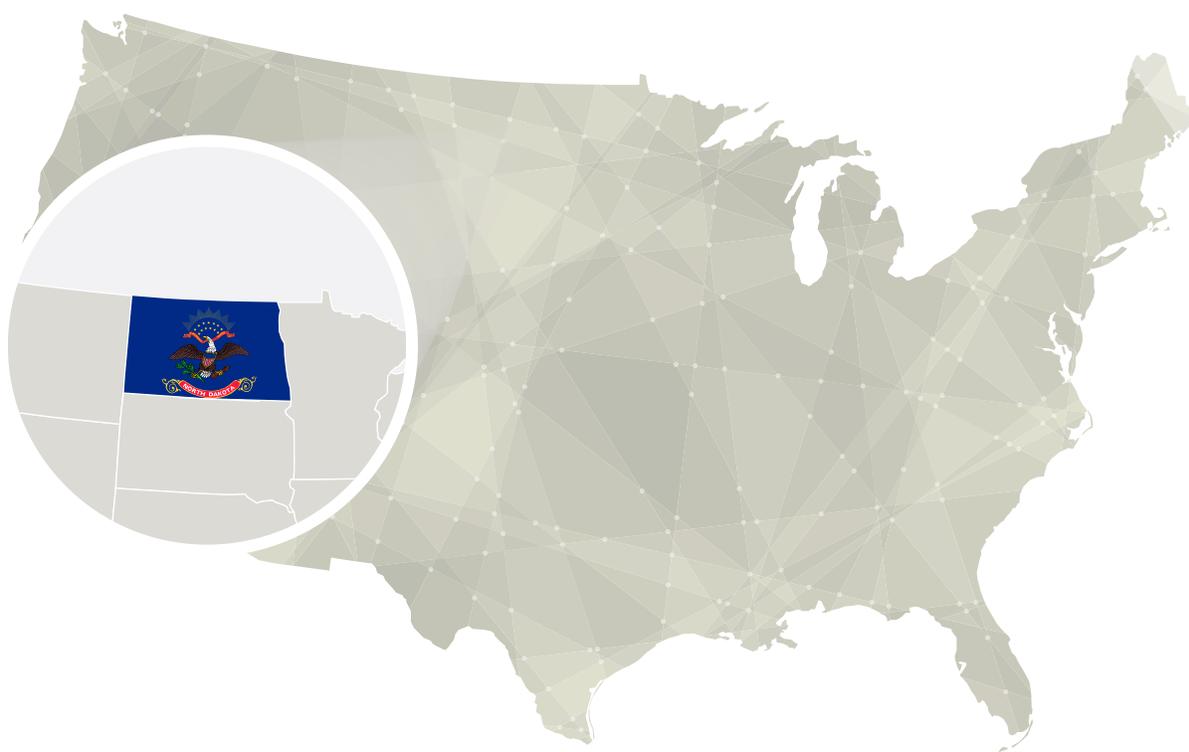
[N.C. GEN. STAT. § 90-87.](#)

### What are the requirements/laws governing the prescribing of “controlled” substances”?

“Every person who manufactures, distributes, dispenses, or conducts research with any controlled substance within this State or who proposes to engage in any of these activities shall annually register with the North Carolina Department of Health and Human Services, in accordance with rules adopted by the Commission, and shall pay the registration fee set by the Commission for the category to which the applicant belongs.”

[N.C. GEN. STAT. § 90-101.](#)

# NORTH DAKOTA





## NORTH DAKOTA

### What is the definition of “telemedicine” or “telehealth”?

The North Dakota Board of Medical Examiners defines “telemedicine” to mean “the practice of medicine using electronic communication or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. It may be provided on both an intra-state and inter-state basis.”

[North Dakota Board of Medical Examiners Telemedicine Policy \(Mar. 2014\).](#)

**NOTE: The North Dakota Board of Medical Examiners is currently considering revisions to the telemedicine policy that could potentially impact this definition.**

“Telemedicine” is defined as “the practice of medicine using electronic communication, information technologies or other means between a licensee in one location and a patient in another location. It includes direct interactive patient encounters as well as asynchronous store-and-forward technologies and remote monitoring.”

[Draft Telemedicine Regulation § 50-02-15-01.](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[North Dakota Board of Medical Examiners](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Physicians practicing via telemedicine will be held to the same standard of care as physicians using in-person medical care.

Physicians providing care to a person located within the state of North Dakota must have a current license to practice, whether care is being provided in-person or through telemedicine.

[North Dakota Board of Medical Examiners Telemedicine Policy \(Mar. 2014\).](#)

**NOTE: The North Dakota Board of Medical Examiners is currently considering revisions to the policy that could potentially impact this provision.**

The practice of medicine occurs in the state in which the patient is located. Practitioners providing medical care to patients located in North Dakota are subject to the licensing and disciplinary laws of North Dakota and must possess an active North Dakota license for their profession.

[Draft Telemedicine Regulation § 50-02-15-02.](#)



## NORTH DAKOTA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

An examination need not be in-person if the technology utilized, along with the input of any intervening health care provider, provides the same information to the practitioner diagnosing or treating the patient as if the examination had been conducted on an in-person basis. Online or telephonic questionnaires, without an examination, are not permitted.

[North Dakota Board of Medical Examiners Telemedicine Policy \(Mar. 2014\).](#)

**NOTE: The North Dakota Board of Medical Examiners is currently considering revisions to the policy that could potentially impact this provision.**

An examination or evaluation may be performed via telemedicine if the examination or evaluation is equivalent to an in-person examination. An examination or evaluation that consists only of an online questionnaire or an audio conversation does not meet the standard of care.

[Draft Telemedicine Regulation § 50-02-15-03.](#)

### Does a psychiatrist have prescribing authority?

#### If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

Barring certain exceptions (see below), a personal examination is required before prescribing medications to a new patient.

Prescribing may be done without a prior personal examination if made:

- as part of an admission order for a newly hospitalized patient,
- for the patient of another provider for whom the prescriber is taking call, or
- to continue medication on a short-term basis for a new patient prior to a first appointment.

[North Dakota Board of Medical Examiners Telemedicine Policy \(Mar. 2014\).](#)

**NOTE: The North Dakota Board of Medical Examiners is currently considering revisions to the policy that could potentially impact this provision.**

A physician who has performed a telemedicine examination or evaluation may prescribe medications according to the physician's professional discretion and judgment, with one exception—physicians may not prescribe opioids for pain control through a telemedicine encounter.

[Draft Telemedicine Regulation § 50-02-15-04.](#)

### 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.



## NORTH DAKOTA

### PSYCHOLOGISTS

**What is the regulatory body in the state that governs the practice of psychology?**

[North Dakota State Board of Psychologist Examiners](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

“[T]here is no special licensure status or credential within North Dakota for the practice of telepsychology. As a result, a psychologist licensed in North Dakota may be permitted to provide telepsychology services to recipients located either inside or outside North Dakota.”

A psychologist licensed in another jurisdiction, but who is not licensed in North Dakota, may also be permitted to provide telepsychology services in North Dakota. If the psychologist or the recipient is located in North Dakota, the psychologist must comply with North Dakota laws. Where the recipient is located in North Dakota, the law requires that the services be a continuation of a professional relationship with the recipient that was formed first in the jurisdiction in which the provider is licensed.

[North Dakota State Board of Psychologist Examiners, Board Statement on Telepsychology in North Dakota \(Oct. 2014\).](#)

“The provision of services to an individual in this state which fall within the standard of practice of a profession or occupation regulated by a board, regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of that occupation or profession in this state and is subject to regulation by the appropriate board in this state.”

[N.D. CENT. CODE § 43-51.02.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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.



## NORTH DAKOTA

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[North Dakota State Board of Social Work Examiners](#)

**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)?**

None identified.

“The provision of services to an individual in this state which fall within the standard of practice of a profession or occupation regulated by a board, regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of that occupation or profession in this state and is subject to regulation by the appropriate board in this state.”

[N.D. CENT. CODE § 43-51.02.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

Social workers who provide services via electronic media, such as computer, telephone, radio, and television, must inform clients of the limitations and risks with these services.

Social workers must obtain informed consents from clients before audiotaping or videotaping them or permitting observation of services to clients by a third party.

[N.D. ADMIN. CODE § 75.5-02-06.1.](#)

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.



## NORTH DAKOTA

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[North Dakota Board of Counselor Examiners](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

“The provision of services to an individual in this state which fall within the standard of practice of a profession or occupation regulated by a board, regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of that occupation or profession in this state and is subject to regulation by the appropriate board in this state.”

[N.D. CENT. CODE § 43-51.02.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[North Dakota Marriage & Family Therapy Licensure Board](#)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

None identified.



## NORTH DAKOTA

**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.

“The provision of services to an individual in this state which fall within the standard of practice of a profession or occupation regulated by a board, regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of that occupation or profession in this state and is subject to regulation by the appropriate board in this state.”

[N.D. CENT. CODE § 43-51.02.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[North Dakota Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

“The provision of services to an individual in this state which fall within the standard of practice of a profession or occupation regulated by a board, regardless of the means by which the services are provided or the physical location of the person providing those services, constitutes the practice of that occupation or profession in this state and is subject to regulation by the appropriate board in this state.”

[N.D. CENT. CODE § 43-51.02.](#)



## 50-State Survey of Telemental/Telebehavioral Health

**NORTH DAKOTA****What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority?  
If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

Prescriptive authority must be requested by the APRN by completing the applicable section of the licensure application. Assuming that all other requirements are met, the nurse/advanced practice license will be reissued with prescriptive authority.

[N.D. CENT. CODE § 54-05-03.1-09.](#)

**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.

**PRIVACY/CONFIDENTIALITY**

**What are the specific privacy/confidentiality requirements involving mental health records?**

“Upon the request of a health care provider’s patient or any person authorized by a patient, the provider shall provide a free copy of a patient’s health care records to a health care provider designated by the patient or the person authorized by the patient if the records are requested for the purpose of transferring that patient’s health care to another health care provider for the continuation of treatment.”

[N.D. CENT. CODE § 23-12-14.](#)

**Are there privacy/confidentiality requirements specifically related to telemental/telebehaviorial/telepsychiatric health services?**

The telemedicine provider must ensure the availability of follow-up care and maintain a complete medical record that is available to the patient and other treatment providers.

[North Dakota Board of Medical Examiners Telemedicine Policy \(Mar. 2014\).](#)

**MINORS**

**What are the requirements/restrictions regarding the provision of telemental/telebehaviorial/telepsychiatric health services to minors?**

None identified.



## NORTH DAKOTA

### FOLLOW-UP CARE

#### What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

The telemedicine provider must ensure the availability of follow-up care and maintain a complete medical record that is available to the patient and other treatment providers.

[North Dakota Board of Medical Examiners Telemedicine Policy \(Mar. 2014\).](#)

**NOTE: The North Dakota Board of Medical Examiners is currently considering revisions to the policy that could potentially impact this provision.**

Physicians must have the ability to make appropriate referrals of patients not amenable to telemedicine, including those patients in need of emergent care or complementary in-person care.

[Draft Telemedicine Regulation § 50-02-15-03.](#)

#### 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?

None identified.

### 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.

#### Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.

#### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

Telemedicine services reimbursed include new and established office and other outpatient E/M services, psychiatric diagnostic evaluation, and individual psychotherapy.

The originating and distant sites of telemedicine services cannot be in the same facility or community. The distant site must be a sufficient distance from the originating site to provide services to patients who do not have readily available access to such specialized services allowed to be provided via telemedicine.

All limits that apply to psychiatry, speech therapy, and individual medical nutrition therapy also apply to telemedicine services.

[North Dakota Department of Human Services, Medicaid Medical Policy NDMP-2012-0007 \(rev. Jan. 2015\).](#)



## NORTH DAKOTA

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

The North Dakota Uniform Controlled Substances Act defines “controlled substance” as “a drug, substance, or immediate precursor in schedules I through V.”

[N.D. CENT. CODE § 19-03.1-01.](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances”?

A controlled substance that is a prescription drug may not be delivered, distributed, or dispensed via the Internet without a valid prescription, but nothing in the law may be construed to imply that one in-person medical evaluation by itself demonstrates that a prescription has been validly issued for a legitimate medical purpose within the usual course of professional practice.

[N.D. CENT. CODE § 19-03.1-22.4.](#)

# OHIO





## 50-State Survey of Telemental/Telebehavioral Health

**OHIO****What is the definition of “telemedicine” or “telehealth”?**

Ohio statutes define “the practice of telemedicine” as “the practice of medicine in this state through the use of any communication, including oral, written, or electronic communication, by a physician located outside this state.”

[OHIO REV. CODE ANN. § 4731.296\(A\).](#)

**What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?**

“Telepsychiatry” is defined as “the provision of psychiatric care via real-time, adequate resolution audio and video telecommunications when all of the following requirements are met:

- a. Videoconferencing picture resolution, at a minimum, shall have a data rate of 30 frames per second (fps), with each frame containing 288 lines and 352 pixels per line.
- b. Systems shall have a minimum of 384 kilobytes per second (Kbps) of bandwidth, and the provider site shall have the capacity to zoom and to follow the patient at the remote site.”

[OHIO REV. CODE ANN. § 4731-11-09.](#)

Also, Ohio statutes define “telepsychology” as “the practice of psychology or school psychology as those terms are defined in . . . the Revised Code, including psychological and school psychological supervision, by distance communication technology such as but not necessarily limited to telephone, email, Internet-based communications, and videoconferencing.”

[OHIO ADMIN. CODE § 4732-17\(I\)\(1\).](#)

**PSYCHIATRISTS****What is the regulatory body in the state that governs the practice of psychiatry?**

[State Medical Board of Ohio](#)

**What are the restrictions on the scope of practice for psychiatrists 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)?**

Yes.

“The holder of a telemedicine certificate may engage in the practice of telemedicine in this state. A person holding a telemedicine certificate shall not practice medicine in this state without obtaining a special activity certificate under section 4731.294 of the Revised Code.”

[OHIO REV. CODE ANN. § 4731.296\(C\).](#)



## 50-State Survey of Telemental/Telebehavioral Health

**OHIO**

**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?** CONTINUED

“An applicant for a special activity certificate shall hold a telemedicine certificate issued under section 4731.296 of the Revised Code or submit evidence satisfactory to the board” that, among other things, the applicant holds a current, unrestricted license to practice medicine and surgery or osteopathic medicine and surgery issued by another state or country.

[OHIO REV. CODE ANN. § 4731.294\(B\).](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

A physician cannot “prescribe, dispense, or otherwise provide any dangerous drug which is not a controlled substance to a person who the physician has never personally physically examined and diagnosed,” barring certain exceptions discussed below.

[OHIO ADMIN. CODE § 4731-11-09\(B\).](#)

**Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?**

Yes.

“A physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any dangerous drug which is not a controlled substance to a person who the physician has never personally physically examined and diagnosed, except in accordance with [certain] requirements. . . .”

[OHIO ADMIN. CODE § 4731-11-09\(B\).](#)

One such set of requirements is as follows:

“The psychiatrist is providing telepsychiatry to one patient per session who is located at the Ohio office of an Ohio licensed physician or a community mental health clinic certified by the Ohio department of mental health, and all of the following requirements are met:

- a. The psychiatrist has reviewed records from a physical examination of the patient that was conducted by a licensed physician within a reasonable period of time prior to the telepsychiatry visit;
- b. A licensed healthcare professional is available during the telepsychiatry visit to provide various physical findings in accordance with the licensed healthcare professional’s scope of practice that the psychiatrist may need to complete an adequate assessment;
- c. The psychiatrist agrees to do both of the following:
  - i. Be available to consult with another physician who has an ongoing professional relationship with the patient; and
  - ii. (Supervise the patient’s use of the drug or drugs pr[o]vided;
- d. The psychiatrist’s care of the patient meets all applicable standards of care and all applicable statutory and regulatory requirements.”

[OHIO ADMIN. CODE § 4731-11-09\(B\)\(2\).](#)



## OHIO

### 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 “telehealth services” provides that such services are to be delivered through “interactive audio, video, or other telecommunication or electronic technology from a site other than the site where the patient is located.”

[OHIO REV. CODE ANN. § 5164.95\(A\).](#)

## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[Ohio Board of Psychology](#)

### What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

“Licensees practicing telepsychology shall . . . conduct a risk-benefit analysis and document findings specific to: (i) whether the client’s presenting problems and apparent condition are consistent with the use of telepsychology to the client’s benefit; and (ii) 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.”

[OHIO ADMIN. CODE § 4732-17\(l\)\(6\)\(a\).](#)

“Licensees practicing telepsychology shall . . . not provide telepsychology services to any person or persons when the outcome of the analysis required in paragraphs (l)(6)(a)(i) and (l)(6)(a)(ii) of this rule is inconsistent with the delivery of telepsychology services, whether related to clinical or technological issues.”

[OHIO ADMIN. CODE § 4732-17\(l\)\(6\)\(b\).](#)

### 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 Ohio Board of Psychology is generally required to practice as a psychologist in Ohio, or the psychologist must be a registered supervisee of an Ohio licensee being delegated telepsychology practices.

[OHIO ADMIN. CODE § 4732-17\(l\)\(2\).](#)

The following exemption applies to out-of-state psychologists: “Licensees understand that this rule does not provide licensees with authority to practice telepsychology in service to clients domiciled in any jurisdiction other than Ohio, and licensees bear responsibility for complying with laws, rules, and/or policies for the practice of telepsychology set forth by other jurisdictional boards of psychology.”

[OHIO ADMIN. CODE § 4732-17\(l\)\(3\).](#)



## 50-State Survey of Telemental/Telebehavioral Health

**OHIO****What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

Prior to providing telepsychology services, a provider must obtain the written informed consent of the client, which should include the following:

- i. “The limitations and innovative nature of using distance technology in the provision of psychological or school psychological services;
- ii. Potential risks to confidentiality of information due to the use of distance technology;
- iii. (Potential risks of sudden and unpredictable disruption of telepsychology services and how an alternative means of re-establishing electronic or other connection will be used under such circumstances;
- iv. When and how the licensee will respond to routine electronic messages;
- v. Under what circumstances the licensee and service recipient will use alternative means of communications under emergency circumstances;
- vi. Who else may have access to communications between the client and the licensee;
- vii. Specific methods for ensuring that a client’s electronic communications are directed only to the licensee or supervisee;
- viii. How the licensee stores electronic communications exchanged with the client.”

[OHIO ADMIN. CODE § 4732-17\(l\)\(6\)\(h\).](#)

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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, the term “telepsychology” is defined as the practice of psychology or school psychology “by distance communication technology such as but not necessarily limited to telephone, email, Internet-based communications, and videoconferencing.”

[OHIO ADMIN. CODE § 4732-17\(l\)\(1\).](#)

**SOCIAL WORKERS****What is the regulatory body in the state that governs the practice of social work?**

[Ohio Counselor, Social Worker, and Marriage and Family Therapist Board](#)



## 50-State Survey of Telemental/Telebehavioral Health

**OHIO****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)?**

“All practitioners providing counseling, social work or marriage and family therapy via electronic service delivery to Ohio citizens shall be licensed in Ohio.”

[OHIO ADMIN. CODE § 4757-5-13\(A\)\(1\).](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

“Electronic service delivery shall require an initial face-to-face meeting which may be via video/audio electronically, to verify the identity of the electronic service client. At that meeting, steps shall be taken to address imposter concerns, such as by using passwords to identify the client in future electronic contacts.”

[OHIO ADMIN. CODE § 4757-5-13\(A\)\(3\).](#)

“Informed consent shall include information defining electronic service delivery as practiced by the licensee and the potential risks and ethical considerations . . . (a) Licensees shall obtain informed consent. (b) Licensees shall not provide services without client-signed informed consent.”

[OHIO ADMIN. CODE § 4757-5-13\(A\)\(4\).](#)

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

None identified.

**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.

**COUNSELORS****What is the regulatory body in the state that governs the practice of counseling?**

[Ohio Counselor, Social Worker, and Marriage and Family Therapist Board](#)

**What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?**

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**OHIO**

**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?**

*See Social Workers section above.*

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

*See Social Workers section above.*

**Does a counselor have prescribing authority? If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

## MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Ohio Counselor, Social Worker, and Marriage and Family Therapist Board](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

*See Social Workers section above.*

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

*See Social Workers section above.*



## 50-State Survey of Telemental/Telebehavioral Health

**OHIO**

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

**ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Ohio Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority?  
If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

[OHIO ADMIN. CODE § 4723-8-02\(C\).](#)

No telehealth-specific conditions/limits identified.

**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.

**OHIO****PRIVACY/CONFIDENTIALITY****What are the specific privacy/confidentiality requirements involving mental health records?**

Inpatient psychiatric service providers must have written policies and procedures regarding the release of information and confidentiality of oral or written patient information.

[OHIO ADMIN. CODE § 5122-14-13\(M\).](#)

All certificates, applications, records, and reports that directly or indirectly identify a patient or former patient or person whose hospitalization or commitment has been sought, must be kept confidential and must not be disclosed by any person except:

- (1) If the person identified, or the person's legal guardian, if any, or if the person is a minor, the person's parent or legal guardian, consents, and if the disclosure is in the best interests of the person . . . ;
- . . . .
- (3) That hospitals, boards of alcohol, drug addiction, and mental health services, and community mental health services providers may release necessary medical information to insurers and other third-party payers, including government entities responsible for processing and authorizing payment, to obtain payment for goods and services furnished to the patient;
- (4) Pursuant to a court order signed by a judge;
- (5) That a patient shall be granted access to the patient's own psychiatric and medical records, unless access specifically is restricted in a patient's treatment plan for clear treatment reasons;
- (6) That hospitals and other institutions and facilities within the department of mental health and addiction services may exchange psychiatric records and other pertinent information with other hospitals, institutions, and facilities of the department, and with community mental health services providers and boards of alcohol, drug addiction, and mental health services with which the department has a current agreement for patient care or services. Records and information that may be released pursuant to this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment in the hospital, summary of treatment needs, and a discharge summary, if any[;]
- (7) That hospitals within the department and other institutions and facilities within the department may exchange psychiatric records and other pertinent information with payers and other providers of treatment and health services if the purpose of the exchange is to facilitate continuity of care for a patient or for the emergency treatment of an individual;
- (8) That a patient's family member who is involved in the provision, planning, and monitoring of services to the patient may receive medication information, a summary of the patient's diagnosis and prognosis, and a list of the services and personnel available to assist the patient and the patient's family, if the patient's treating physician determines that the disclosure would be in the best interests of the patient. No such disclosure shall be made unless the patient is notified first and receives the information and does not object to the disclosure[;]



## 50-State Survey of Telemental/Telebehavioral Health

**OHIO****What are the specific privacy/confidentiality requirements involving mental health records? CONTINUED**

(9) That community mental health services providers may exchange psychiatric records and certain other information with the board of alcohol, drug addiction, and mental health services and other services providers in order to provide services to a person involuntarily committed to a board. Release of records under this division shall be limited to medication history, physical health status and history, financial status, summary of course of treatment, summary of treatment needs, and discharge summary, if any[.]

(10) That information may be disclosed to the executor or the administrator of an estate of a deceased patient when the information is necessary to administer the estate;

(11) That records in the possession of the Ohio historical society may be released to the closest living relative of a deceased patient upon request of that relative;

....

(13) That the department of mental health and addiction services may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with the department of rehabilitation and correction and with the department of youth services to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution of the department of rehabilitation and correction or the department of youth services and may exchange psychiatric hospitalization records, other mental health treatment records, and other pertinent information with boards of alcohol, drug addiction, and mental health services and community mental health services providers to ensure continuity of care for inmates or offenders who are receiving mental health services in an institution and are scheduled for release within six months. The department shall not disclose those records unless the inmate or offender is notified, receives the information, and does not object to the disclosure. The release of records under this division is limited to records regarding an inmate's or offender's medication history, physical health status and history, summary of course of treatment, summary of treatment needs, and a discharge summary, if any[.]

Before records are disclosed, the custodian of the records will attempt to obtain the patient's consent for the disclosure. "No person shall reveal the contents of a medical record of a patient except as authorized by law."

[OHIO REV. CODE ANN. § 5122.31.](#)

**Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?**

None identified.

**MINORS****What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?**

None identified.



## OHIO

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

**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?**

None identified.

### 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.

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

None identified.

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

Ohio Medicaid covers live video telemedicine. Eligible distant site providers are:

- Physicians (MD, DO)
- Psychologists
- Federally qualified health centers (medical and mental health)

Only resident modifiers will be accepted. Providers are not eligible for payment when a Q3014 (facility fee) and a CPT code with a GQ modifier is submitted for the same patient, same date of service, and same provider.

[OHIO ADMIN. CODE § 5160-1; Ohio Department of Medicaid, Medicaid Handbook Transmittal Letter No. 3334-15-01 \(Jan. 2015\).](#)

“The originating site is responsible for documenting the medical necessity of the health care service provided through the use of telemedicine, for securing the informed consent of the patient, and for developing and maintaining progress notes.”

[OHIO ADMIN. CODE § 5160-1-18.](#)



## OHIO

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

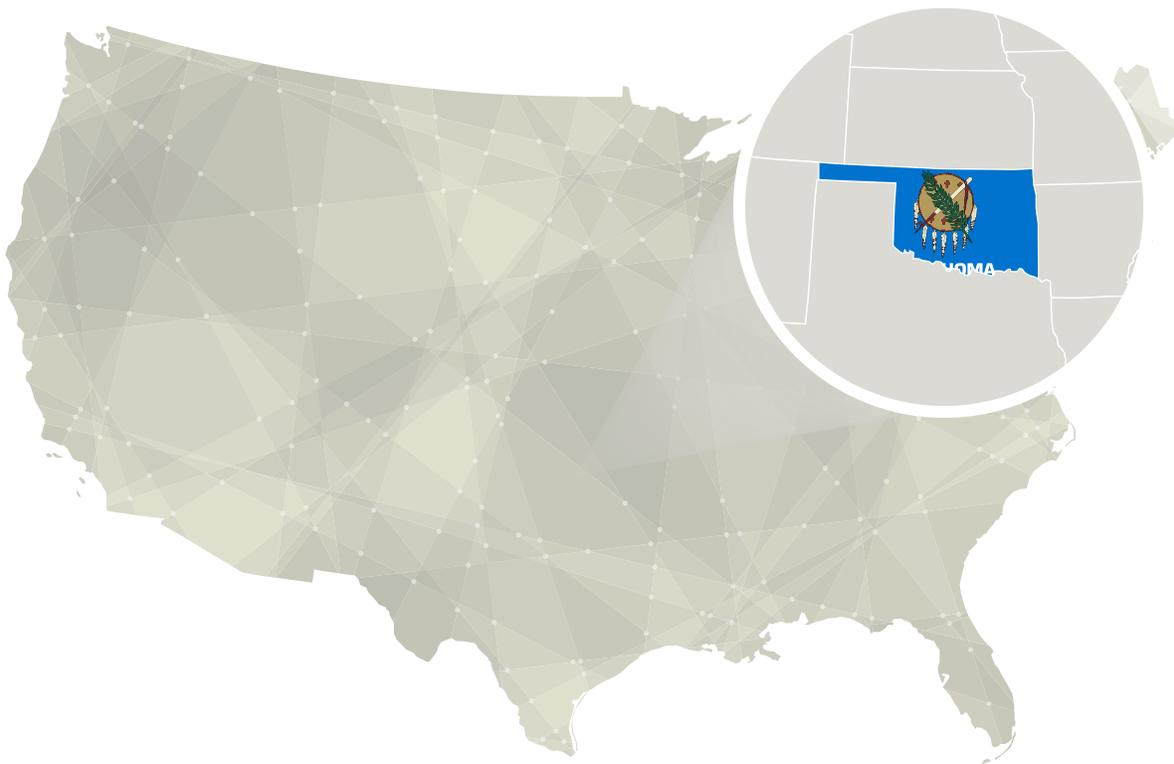
Ohio defines the term “controlled substance” to mean “a drug, compound, mixture, preparation, or substance included in schedule I, II, III, IV, or V.”

[OHIO REV. CODE ANN. § 3719.01\(C\).](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances”?

- (1) A licensed health professional authorized to prescribe drugs, if acting in the course of professional practice, in accordance with the laws regulating the professional’s practice, and in accordance with rules adopted by the state board of pharmacy, may, do the following:
  - (a) Prescribe schedule II, III, IV, and V controlled substances;
  - (b) Administer or personally furnish to patients schedule II, III, IV, and V controlled substances;
  - (c) Cause schedule II, III, IV, and V controlled substances to be administered under the prescriber’s direction and supervision.
- (2) A licensed health professional authorized to prescribe drugs who is a clinical nurse specialist, certified nurse-midwife, or certified nurse practitioner is subject to both of the following:
  - (a) A schedule II controlled substance may be prescribed
  - (b) No schedule II controlled substance shall be personally furnished to any patient.
- (3) A licensed health professional authorized to prescribe drugs who is a physician assistant is subject to all of the following:
  - (a) A controlled substance may be prescribed or personally furnished only if it is included in the physician-delegated prescriptive authority granted to the physician assistant in accordance with Chapter 4730 of the Revised Code.
  - (b) A schedule II controlled substance may be prescribed only in accordance with division (B)(4) of section 4730.41 and section 4730.411 of the Revised Code.
  - (c) No schedule II controlled substance shall be personally furnished to any patient.

# OKLAHOMA





## OKLAHOMA

### What is the definition of “telemedicine” or “telehealth”?

Oklahoma regulations define “telemedicine” as “the practice of healthcare delivery, diagnosis, consultation, treatment, including but not limited to, the treatment and prevention of conditions appropriate to treatment by telemedicine management, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications.” Note that telemedicine does not include consultation provided by telephone or facsimile machine. The definition also excludes phone or Internet contact or prescribing and other forms of communication, such as web-based video that does not meet certain equipment requirements.

[OKLA. ADMIN. CODE § 435:10-1-4.](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[Oklahoma Medical Board](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Physicians treating patients in Oklahoma through telemedicine must be fully licensed to practice medicine in Oklahoma.

[OKLA. ADMIN. CODE § 435:10-7-13.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“It is the position of the Oklahoma State Board of Medical Licensure and Supervision that the face-to-face encounter required by OAC 435: 10-1-4 to establish a physician/patient relationship includes real-time telemedicine encounters with audio and video capability. In order to qualify as a face-to-face encounter set out in this definition, the telemedicine audio and video capability must meet those elements required by CMS (Centers for Medicare and Medicaid Services).”

[Oklahoma State Board of Medical Licensure and Supervision, Position Statement on the Definition of Face to Face Encounter by Telemedicine in Oklahoma \(Sept. 2013\).](#)



## OKLAHOMA

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

Oklahoma statutes and regulations do not require a face-to-face encounter prior to the prescribing of medications as long as the psychiatrist meets certain requirements.

[OKLA. ADMIN. CODE § 435:10-1-4.](#)

### 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?

None identified.

However the definition of “telemedicine” includes “the treatment and prevention of conditions appropriate to treatment by telemedicine management, 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. ADMIN. CODE § 435:10-1-4.](#)

For purposes of SoonerCare (Medicaid) reimbursement, “telemedicine is the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment that occur in real-time and when the member is actively participating during the transmission.”

“Telemedicine does not include the use of audio only telephone, electronic mail, or facsimile transmission.” Asynchronous or “store and forward” applications are not considered telemedicine but may be utilized to deliver services.

[OKLA. ADMIN. CODE § 317:30-3-27\(a\).](#)

## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[Oklahoma Psychology Board](#)

### What are the restrictions on the scope of practice for psychologists 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)?

None identified.

However, a license issued by the Oklahoma Psychology Board is generally to practice as a psychologist in Oklahoma.

[OKLA. STAT. tit 59, § 1353.](#)



## OKLAHOMA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

See Psychiatrists section above.

### Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

No.

### 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?

See Psychiatrists section above.

For purposes of SoonerCare (Medicaid) reimbursement, “telemedicine is the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment that occur in real-time and when the member is actively participating during the transmission.”

“Telemedicine does not include the use of audio only telephone, electronic mail, or facsimile transmission.” Asynchronous or “store and forward” applications are not considered telemedicine but may be utilized to deliver services.

[OKLA. ADMIN. CODE § 317:30-3-27\(a\).](#)

## SOCIAL WORKERS

### What is the regulatory body in the state that governs the practice of social work?

[Oklahoma State Board of Licensed Social Workers](#)

### What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

None identified.

“The provision of social work services to an individual in this state, through telephonic, electronic or other means, regardless of the location of the social worker, shall constitute the practice of social work and shall be subject to regulation.”

[OKLA. STAT. tit. 59, § 1270.](#)

### 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 Oklahoma State Board of Licensed Social Workers is generally required to practice as a social worker in Oklahoma.

[Okla. Stat. tit. 59, § 1251.](#)



## OKLAHOMA

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[Oklahoma State Board of Behavioral Health](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, a license issued by the Oklahoma State Board of Behavioral Health is generally required to practice as a counselor in Oklahoma.

[OKLA. STAT. tit. 59, § 1908.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.



## OKLAHOMA

### 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.

For purposes of SoonerCare (Medicaid) reimbursement, “telemedicine is the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment that occur in real-time and when the member is actively participating during the transmission.”

“Telemedicine does not include the use of audio only telephone, electronic mail, or facsimile transmission.” Asynchronous or “store and forward” applications are not considered telemedicine but may be utilized to deliver services.

[OKLA. ADMIN. CODE § 317:30-3-27\(a\).](#)

### MARRIAGE/FAMILY THERAPISTS

### What is the regulatory body in the state that governs the practice of marriage/family therapy?

[Oklahoma State Board of Behavioral Health](#)

### What are the restrictions on the scope of practice for marriage/family therapists 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)?

None identified.

However, a license issued by the Oklahoma State Board of Behavioral Health is generally required to practice as a marriage and family therapist in Oklahoma.

[OKLA. STAT. tit. 59, § 1925.8.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.



## OKLAHOMA

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

For purposes of SoonerCare (Medicaid) reimbursement, “telemedicine is the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment that occur in real-time and when the member is actively participating during the transmission.”

“Telemedicine does not include the use of audio only telephone, electronic mail, or facsimile transmission.” Asynchronous or “store and forward” applications are not considered telemedicine but may be utilized to deliver services.

[OKLA. ADMIN. CODE § 317:30-3-27\(a\).](#)

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Oklahoma Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

However, a license issued by the Oklahoma Board of Nursing is generally required to practice as an APRN in Oklahoma.

[OKLA. STAT. tit. 59, § 567.5a.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.



## OKLAHOMA

### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes.

APRNs may prescribe in writing, orally, or by other means of telecommunication, drugs or medical supplies that are (i) not listed on the exclusionary formulary approved by the Board, (ii) within the scope of practice for the APRN, and (iii) not otherwise prohibited by law.

[OKLA. ADMIN. CODE § 485:10-16-5\(a\).](#)

No telehealth-specific conditions/limits identified.

### 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.

For purposes of SoonerCare (Medicaid) reimbursement, “telemedicine is the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment that occur in real-time and when the member is actively participating during the transmission.”

“Telemedicine does not include the use of audio only telephone, electronic mail, or facsimile transmission.” Asynchronous or “store and forward” applications are not considered telemedicine but may be utilized to deliver services.

[OKLA. ADMIN. CODE § 317:30-3-27\(a\).](#)

## PRIVACY/CONFIDENTIALITY

### What are the specific privacy/confidentiality requirements involving mental health records?

“All mental health and drug or alcohol abuse treatment information, whether or not recorded, and all communications between a physician or licensed mental health professional . . . or a licensed alcohol and drug counselor . . . and a consumer are both privileged and confidential. In addition, the identity of all persons who have received or are receiving mental health or drug or alcohol abuse treatment services shall be considered confidential and privileged.”

“Such information shall only be available to persons actively engaged in the treatment of the consumer or in related administrative work. The information available to persons actively engaged in the treatment of the consumer or in related administrative work shall be limited to the minimum amount of information necessary for the person or agency to carry out its function.”

“[S]uch information shall not be disclosed to anyone not involved in the treatment of the patient or related administrative work.”

[OKLA. STAT. tit. 43A § -1-109\(A\).](#)

### Are there privacy/confidentiality requirements specifically related to telemental/telebehaviorial/telepsychiatric health services?

None identified.



## OKLAHOMA

### MINORS

#### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

Under Oklahoma's Medicaid program, "the following conditions apply to all services rendered via telemedicine . . . If the member is a minor child, a parent/guardian must present the minor child for telemedicine services unless otherwise exempted by State or Federal law. The parent/guardian need not attend the telemedicine session unless attendance is therapeutically appropriate."

[OKLA. ADMIN. CODE § 317:30-3-27 \(b\)\(6\).](#)

### FOLLOW-UP CARE

#### What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

**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?**

None identified.

### 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.

"For services that a health care practitioner determines to be appropriately provided by means of telemedicine, health care service plans, disability insurer programs, workers' compensation programs, or state Medicaid managed care program contracts issued, amended, or renewed on or after January 1, 1998, shall not require person-to-person contact between a health care practitioner and a patient." This also applies to health care service plan contracts with the state Medicaid managed care program if both of the following apply:



## OKLAHOMA

### 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? CONTINUED

- Telemedicine services are covered by, and reimbursed under, the fee-for-service provisions of the state Medicaid managed care program, and
- State Medicaid managed care program contracts with health care service plans are amended to add coverage of telemedicine services and make any appropriate capitation rate adjustments.

[OKLA. STAT. tit. 36, § 6803.](#)

### Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

Under regulation “[t]he medical or behavioral health related service must be provided at an appropriate site for the delivery of telemedicine services. An appropriate telemedicine site is one that has the proper security measures in place; the appropriate administrative, physical and technical safeguards should be in place that ensure the confidentiality, integrity, and security of electronic protected health information. The location of the room for the encounter at both ends should ensure comfort, privacy, and confidentiality. Both visual and audio privacy are important, placement and selection of the rooms should consider this. Appropriate telemedicine equipment and networks must be used considering factors such as appropriate screen size, resolution, and security. Providers and/or members may provide or receive telemedicine services outside of Oklahoma when medically necessary.”

The provider must also be contracted with SoonerCare and appropriately licensed. If the provider is outside Oklahoma, the provider must comply with all laws and regulations of the provider’s location, including health care and telemedicine requirements.

The provider is required to obtain written consent from the patient acknowledging that he or she agrees to participate in the telemedicine-based office visit. The consent form must include a description of the risks, benefits, and consequences of telemedicine and be included in the medical record.

[OKLA. ADMIN. CODE § 317:30-3-27\(b\).](#)



## OKLAHOMA

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Oklahoma’s Uniform Controlled Substances Act defines “controlled dangerous substance” as “a drug, substance, or immediate precursor in Schedules I through V of the Uniform Controlled Dangerous Substances Act or any drug, substance, or immediate precursor listed either temporarily or permanently as a federally controlled substance.”

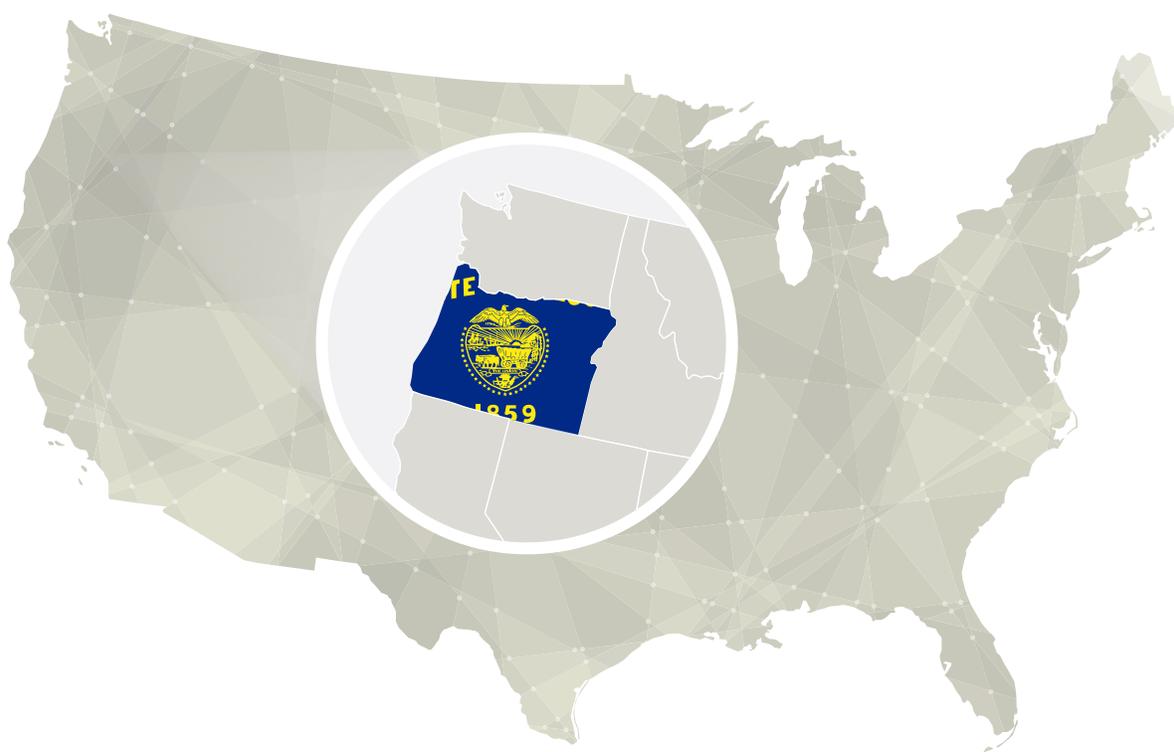
[OKLA. STAT. tit. 63, § 2-101.](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances”?

Except for dosages medically required for a period not to exceed 48 hours that are administered by or on direction of a practitioner, other than a pharmacist, or medication dispensed directly by a practitioner, other than a pharmacist, to a user, no controlled dangerous substance included in Schedule II, which is a prescription drug as determined by the Board of Pharmacy, may be dispensed without the written prescription of a practitioner. In emergency situations, per the Board of Pharmacy, such drug may be dispensed upon oral prescription reduced promptly to writing and filed by the pharmacist in a manner to be prescribed by certain rules and regulations.

[OKLA. STAT. tit. 63, § 2-309.](#)

# OREGON





## 50-State Survey of Telemental/Telebehavioral Health

**OREGON****What is the definition of “telemedicine” or “telehealth”?**

Oregon regulations define “telemedicine” as “the provision of health services to patients by physicians and health care practitioners from a distance using electronic communications.”

[OR. REV. STAT. § 442.015\(26\).](#)

“Telemonitoring” means “the intraoperative monitoring of data collected during surgery and electronically transmitted to a physician who practices in a location outside of Oregon via a telemedicine link for the purpose of allowing the monitoring physician to notify the operating team of changes that may have a serious effect on the outcome and/or survival of the patient.”

[OR. ADMIN. R. § 847-008-0023.](#)

**What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?**

None identified.

**PSYCHIATRISTS****What is the regulatory body in the state that governs the practice of psychiatry?**

[Oregon Medical Board](#)

**What are the restrictions on the scope of practice for psychiatrists 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychiatrist have prescribing authority?  
If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?**

Yes.

Oregon’s medical practice statute allows psychiatrists to prescribe drug orders through electronic means transmitted directly to the dispensing pharmacist.

[OR. REV. STAT. § 475.188.](#)



## 50-State Survey of Telemental/Telebehavioral Health

**OREGON**

**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, “forms of telecommunications, such as telephone calls, images transmitted via facsimile machines, and electronic mail are services not covered [by the Oregon Medicaid Program]:

- a. When those forms are not being used in lieu of videoconferencing, due to limited videoconferencing equipment access, or
- b. When those forms and specific services are not specifically allowed per the Health Service Prioritized List and Practice Guideline.”

[OR. ADMIN. R. § 410-130-0610\(6\).](#)

**PSYCHOLOGISTS**

**What is the regulatory body in the state that governs the practice of psychology?**

[Oregon Board of Psychologist Examiners](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, a license issued by the Oregon Board of Psychologist Examiners is generally required to practice as a psychologist in Oregon.

[OR. REV. STAT. § 675.063.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.



## OREGON

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.

### SOCIAL WORKERS

What is the regulatory body in the state that governs the practice of social work?

[Oregon Board of Licensed Social Workers](#)

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)?

None identified.

However, a license issued by the Oregon Board of Licensed Social Workers is generally required to practice as a Social Worker in Oregon.

[OR. ADMIN. R. § 877-020-0016.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?

No.

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.

### COUNSELORS

What is the regulatory body in the state that governs the practice of counseling?

[Oregon Board of Licensed Professional Counselors and Therapists](#)



## 50-State Survey of Telemental/Telebehavioral Health

**OREGON****What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?**

None identified.

However, “when technology-assisted distance counseling services are deemed inappropriate for any reason by the counselor or client, counselors must ensure that a professional and clinically sound referral is made to counseling resources in the client’s geographic area.”

[OR. ADMIN. R. § 833-090-0020.](#)

**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 Oregon Board of Licensed Professional Counselors and Therapists is generally required to practice as a Counselor in Oregon.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

The Oregon Administrative Rules provide the following:

1. Licensees must give all potential clients access to the licensee’s Professional Disclosure Statement (PDS) prior to service delivery with a means of confirming receipt and acknowledgement of the PDS.
2. Licensees must inform clients of the benefits and limitations of distance service delivery, including:
  - a. Issues related to the difficulty of maintaining the confidentiality of electronically transmitted communications;
  - b. Names of colleagues, supervisors, and employees, such as Informational Technology (IT) administrators, who may have authorized or unauthorized access to electronic transmissions;
  - c. The risks of all authorized or unauthorized people who have access to any technology clients may use in the counseling process. This includes family members, friends, acquaintances, and fellow employees;
  - d. Limitations governing the practice of the LPC or LMFT profession in the State of Oregon, including that the laws and statutes regarding the practice of professional counseling and marriage and family therapy differ from state-to-state;
  - e. Contact information and alternate methods of contact in case of technology failure; and
  - f. Emergency procedures for situations when the counselor is not available.

[OR. ADMIN. R. § 833-090-0040.](#)

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.



## OREGON

### 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, the Oregon Administrative Rules say the following:

- (1) When providing technology-assisted distance counseling services, licensees must:
  - a. Use secure web sites and e-mail communications to help ensure confidentiality[.]
  - b. Determine that technology-assisted services are appropriate, available, and meets the needs of the particular client[.]
  - c. Have a working knowledge of the particular technology used to meet the needs of clients.
  - d. Conduct due diligence in confirming the identity of potential clients.
- (2) When the use of encryption is not possible, [licensees must] limit electronic transmissions to general communications that are not client specific.

[OR. ADMIN. R. § 833-090-0010.](#)

### MARRIAGE/FAMILY THERAPISTS

### What is the regulatory body in the state that governs the practice of marriage/family therapy?

[Oregon Board of Licensed Professional Counselors and Therapists](#)

### What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

*See Counselors section above.*

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

*See Counselors section above.*

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

*See Counselors section above.*



## OREGON

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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?**

*See Counselors section above.*

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Oregon State Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

However, a license issued by the Oregon State Board of Nursing is generally required to practice as an APRN in Oregon.

[OR. ADMIN. R. § 851-050-0000-0004.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

APRNs may prescribe drugs appropriate for patients within their scope of practice and will be held independently accountable for their prescribing decisions. All drugs prescribed by APRNs must have Food and Drug Administration (FDA) approval unless mentioned as an exception in Oregon Administrative Rule 851-056-0010.

[OR. ADMIN. R. § 851-056-0012.](#)

No telehealth-specific conditions/limits identified.



## OREGON

### 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 electronically transmitted prescription . . . shall include the name and immediate contact information of the prescriber and be electronically encrypted or in some manner protected by up-to-date technology from unauthorized access, alteration or use. Controlled substances have additional restrictions as defined by the DEA which shall be followed.”

[OR. ADMIN. R. § 851-056-0010\(2\).](#)

### PRIVACY/CONFIDENTIALITY

### What are the specific privacy/confidentiality requirements involving mental health records?

Every individual receiving mental health community treatment and support services has several rights, including the right to confidentiality of his or her records, the right to consent to the disclosure of his or her records, and the right to inspect his or her individual service record.

[OR. ADMIN. R. § 309-032-1515.](#)

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

Providers billing for covered telemedicine services under the Medicaid program are responsible for “ensuring policies and procedures are in place to prevent a breach in privacy or exposure of patient health information or records (whether oral or recorded in any form or medium) to unauthorized persons.”

[OR. ADMIN. R. §410-130-0610\(2\)\(b\)-\(c\).](#)

### MINORS

### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.



## OREGON

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

**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?**

None identified.

### 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.

“Telemedical” is defined as services delivered through a two-way video communication that allows a health professional to interact with a patient who is at an originating site.

“A health benefit plan must provide coverage of a telemedical health service if:

- (a) The plan provides coverage of the health service when provided in person by the health professional;
- (b) The health service is medically necessary; and
- (c) The health service does not duplicate or supplant a health service that is available to the patient in person.”

“A plan may not distinguish between originating sites that are rural and urban in providing coverage . . . .”

“A health benefit plan may subject coverage of a telemedical health service . . . to all terms and conditions of the plan, including but not limited to deductible, copayment or coinsurance requirements that are applicable to coverage of a comparable health service provided in person.”

A health benefit plan is not required to reimburse a provider for a health service that is not a covered benefit under the plan or to reimburse a health professional who is not a covered provider under the plan.

[OR. ADMIN. R. § 743A.058.](#)



## OREGON

### 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? CONTINUED

“A health benefit plan must provide coverage of a telemedical health service provided in connection with the treatment of diabetes if:

- (a) The plan provides coverage of the health service when provided in person by the health professional;
- (b) The health service is medically necessary;
- (c) The telemedical health service relates to a specific patient; and
- (d) One of the participants in the telemedical health service is a representative of an academic health center.”

[OR. ADMIN. R. § 743A.185\(2\).](#)

### Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

“Telemedicine” means “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, Division of Medical Assistance Programs, Policy and Planning Section, Medical-Surgical Services Administrative Rulebook, ch. 410, div. 130, \(Apr. 2014\).](#)

“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 [CPT] 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” video conferencing billing requirements below.

[OR. ADMIN. R. § 410-130-0610.](#)

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

Oregon Medicaid will reimburse for live video when billed services comply with its billing requirements. The referring provider is not required to be present with the client for the consult. The referring provider may bill for the patient visit only if a separately identifiable visit is performed.

[Oregon Health Authority, Division of Medical Assistance Programs, Policy and Planning Section, Medical-Surgical Services Administrative Rulebook, ch. 410, div. 130, \(Apr. 2014\).](#)



## OREGON

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Oregon defines the term “controlled substance” as “a drug or its immediate precursor classified in Schedules 1 through V under the federal Controlled Substances Act, 21 U.S.C. 811 to 812 . . .” The definition specifically does not include industrial hemp or industrial hemp commodities or products.

[OR. REV. STAT. § 475.005](#)

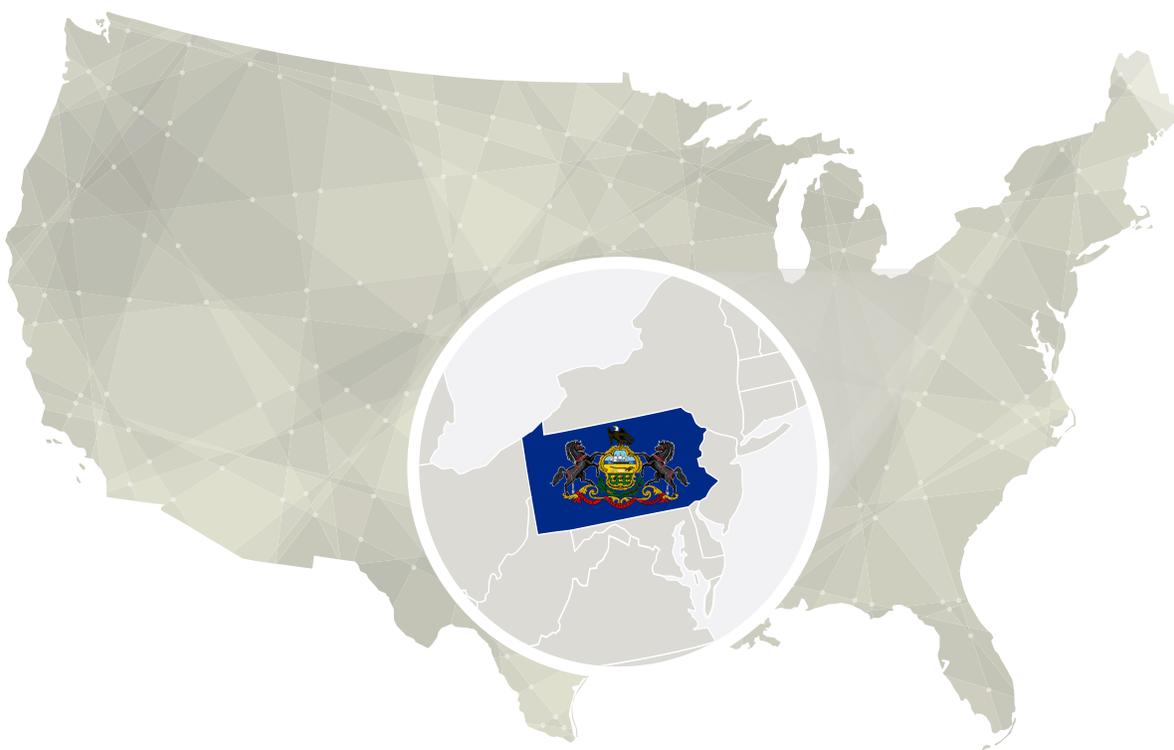
#### What are the requirements/laws governing the prescribing of “controlled” substances”?

The following indicates when prescriptions are required:

- a. Except when dispensed directly by a practitioner to an ultimate user, a controlled substance in Schedule II may not be dispensed without the written prescription of a practitioner.
- b. In emergency situations, as defined by the State Board of Pharmacy, Schedule II drugs may be dispensed upon oral or electronically transmitted prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. . . .

[OR. REV. STAT. § 475.185.](#)

# PENNSYLVANIA





## PENNSYLVANIA

### What is the definition of “telemedicine” or “telehealth”?

“Telemedicine” does not appear to be generally defined by Pennsylvania’s medical practice act. However, the Department of Public Welfare’s Office of Medical Assistance (the Medicaid program) has issued a bulletin that defines the term with respect to the Medical Assistance Program. The bulletin states that “telemedicine” is the use of real-time interactive telecommunications technology that includes, at a minimum, audio and video equipment as a mode of delivering consultation services.

[Pennsylvania Dep’t of Public Welfare, Medical Assistance Bulletin \(May 2012\).](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

No general definition was identified, but with respect to HealthChoices Behavioral Health Managed Care Organizations (HealthChoices is one of Pennsylvania’s mandatory managed care programs for Medicaid recipients), the Pennsylvania Office of Mental Health and Substance Abuse Services (OMHSAS) recently released a bulletin detailing the guidelines used by the Department of Public Welfare to approve “telepsych” programs.

The bulletin defines “telepsych” as “the use of electronic communication and information technologies to provide or support clinical psychiatric and psychological care at a distance. Telepsych is appropriate in situations where on-site services are not available due to distance, location, time of day, or availability of resources.” Telepsych services are those provided by a psychiatrist or licensed psychologist within his or her scope of practice using real-time, two-way interactive audio-video transmission, and do not include a telephone conversation, e-mail, or facsimile transmission between a practitioner and a patient.

[Pennsylvania Dep’t of Public Welfare, Office of Mental Health and Substance Abuse Services Bulletin \(Mar. 2014\).](#)

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[Pennsylvania State Board of Medicine](#)

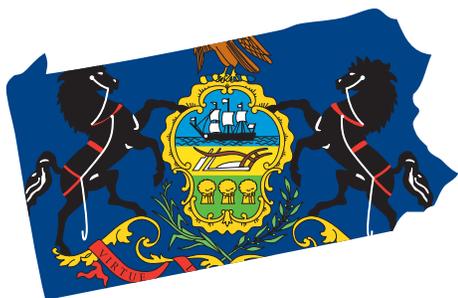
### What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

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)?

Yes. Pennsylvania licensure is required, with limited exceptions.

According to a 2007 Board newsletter, “[p]hysicians should keep in mind that when they prescribe across state lines



## PENNSYLVANIA

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)? CONTINUED

they are practicing medicine in at least two jurisdictions and are subject to regulation and discipline in all the jurisdictions involved. Physicians providing care and/or treatment to patients in the commonwealth must be licensed in Pennsylvania. The issuance of a prescription or dispensing of a medication to individuals who are physically located in the commonwealth constitutes the practice of medicine and may only be undertaken by physicians licensed to practice medicine in this state. Thus, an out-of-state doctor using telemedicine or the Internet to diagnose and treat a patient residing in Pennsylvania must have a Pennsylvania license or be acting as a consultant to a Pennsylvania physician who has a bona fide physician-patient relationship with the patient” (emphasis added).

[Pennsylvania State Board of Medicine Newsletter, Internet Prescribing \(Summer 2007\).](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

A 2009 Board newsletter provides the following:

Currently the board does not have specific regulations addressing the parameters of how to engage in the practice of medicine over the Internet. Neither does the Board regulate the practice of the profession by specific setting, procedure, or patient condition. At this point in time, existing minimum standards of care require that prior to developing and implementing a treatment plan a physician must:

- obtain a proper medical examination and history;
- render a competent diagnostic determination;
- advise and counsel the patient on that determination;
- document the history, physical, diagnostic tests, and treatment plan; and[]
- engage in and document follow-up counseling and treatment.

[Pennsylvania State Board of Medicine Newsletter, Telemedicine and Internet Prescribing \(Oct. 2009\).](#)

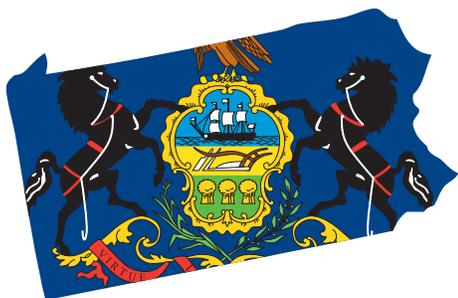
### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

The Board has also noted that prescribing drugs to individuals whom the physician has never met, based solely on answers to a set of questions, is inappropriate and unprofessional. Prescribing drugs under such circumstances, without appropriate documentation of a history and physical examination, a diagnosis, and a formulated therapeutic plan is considered to be unprofessional. Adequate physical examination in the context of a legitimate physician-patient relationship cannot take place without an initial face-to-face encounter with the patient.

Yet, the Board does list exceptions to the general requirement that an in-person examination must take place prior to issuing a prescription. (See full text of newsletter.)

[Pennsylvania State Board of Medicine Newsletter, Internet Prescribing \(Summer 2007\).](#)



## PENNSYLVANIA

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?

No acceptable modalities appear to be specified.

### PSYCHOLOGISTS

What is the regulatory body in the state that governs the practice of psychology?

[Pennsylvania State Board of Psychology](#)

What are the restrictions on the scope of practice for psychologists 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)?

None identified.

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

No criteria appear to be specified.

Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

No.

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?

No acceptable modalities appear to be specified.

### SOCIAL WORKERS

What is the regulatory body in the state that governs the practice of social work?

[Pennsylvania State Board of Social Workers, Marriage and Family Therapists and Professional Counselors](#)



## PENNSYLVANIA

**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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

No criteria appear to be specified. However, regulations define a “professional relationship” as follows:

A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed social worker or licensed clinical social worker and a client/patient and continuing thereafter until the last date of a professional service. If a licensed social worker or licensed clinical social worker sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed social worker or licensed clinical social worker provides a professional service to the client/patient.

[49 PA. CODE § 47.1.](#)

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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?**

No acceptable modalities appear to be specified.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[Pennsylvania State Board of Social Workers, Marriage and Family Therapists and Professional Counselors](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.



## PENNSYLVANIA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

No criteria appear to be specified. However, regulations define a “professional relationship” as follows:

A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed professional counselor and a client/patient and continuing thereafter until the last date of a professional service. If a licensed professional counselor sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed professional counselor provides a professional service to the client/patient.

[49 PA. CODE § 49.1.](#)

### Does a counselor have prescribing authority?

If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?

No.

### 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?

No acceptable modalities appear to be specified.

## MARRIAGE/FAMILY THERAPISTS

### What is the regulatory body in the state that governs the practice of marriage/family therapy?

[Pennsylvania State Board of Social Workers, Marriage and Family Therapists and Professional Counselors](#)

### What are the restrictions on the scope of practice for marriage/family therapists 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)?

None identified.



## PENNSYLVANIA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

No criteria appear to be specified. However, regulations define a “professional relationship” as follows:

A therapeutic relationship which is deemed to exist for the period of time beginning with the first professional contact or consultation between a licensed marriage and family therapist and a client/patient and continuing thereafter until the last date of a professional service. If a licensed marriage and family therapist sees a client/patient on an intermittent basis, the professional relationship is deemed to start anew on each date that the licensed marriage and family therapist provides a professional service to the client/patient.

[49 PA. CODE § 48.1.](#)

### Does a marriage/family therapist have prescribing authority?

If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

### 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?

No acceptable modalities appear to be specified.

## ADVANCED PRACTICE REGISTERED NURSES (APRNs)

### What is the regulatory body in the state that governs the practice of advanced practice nursing?

[Pennsylvania State Board of Nursing](#)

### What are the restrictions on the scope of practice for APRNs 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)?

No licensing requirements appear to be specified.

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

While not telemedicine specific, Board of Nursing regulations state that a “professional relationship” begins with the first professional contact or consultation between a registered nurse and a patient.

[49 PA. CODE § 21.1.](#)



## PENNSYLVANIA

### Does an APRN have prescribing authority?

#### If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes. An APRN can obtain prescriptive authority provided certain requirements are met (see [49 PA. CODE §§ 21.283 & 21.284](#)). No conditions/limits related to APRN prescribing via telemedicine were identified.

### 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?

No acceptable modalities appear to be specified.

## PRIVACY/CONFIDENTIALITY

### What are the specific privacy/confidentiality requirements involving mental health records?

The Pennsylvania Mental Health Procedures Act (which establishes rights and procedures for all involuntary treatment of mentally ill persons, whether inpatient or outpatient, and for all voluntary inpatient treatment of mentally ill persons) provides that all documents concerning persons in treatment must be kept confidential and, without the person's written consent, may not be released or their contents disclosed to anyone except:

1. those engaged in providing treatment for the person;
2. the county administrator, pursuant to section 110;
3. a court in the course of legal proceedings authorized by this act; and
4. pursuant to federal rules, statutes, and regulations governing disclosure of patient information when treatment is undertaken in a federal agency.

Privileged communications, whether written or oral, cannot be disclosed to anyone without written consent. This will not restrict the collection and analysis of clinical or statistical data by the department, the county administrator, or the facility so long as the use and dissemination of such data does not identify individual patients.

[55 PA. CODE § 5100.32](#) (provides additional detail regarding the above provisions).

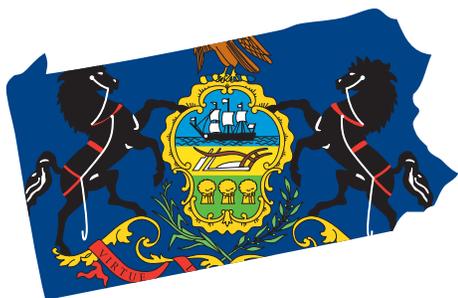
### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.

## MINORS

### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

No telemedicine-specific requirements related to minors were identified.



## PENNSYLVANIA

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

**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?**

None identified.

### 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?**

No.

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

None identified.

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

Pennsylvania's Medical Assistance (MA) Program released a bulletin in March 2014 detailing the guidelines used by the Department to approve telepsych (i.e., telepsychiatry and telepsychology) programs in Pennsylvania:

- “[F]or the purposes of Healthchoices, telepsych is limited to the following outpatient services:
  - » Psychiatric diagnostic evaluations
  - » Psychological Evaluations
  - » Pharmacological management
  - » Consultations (with patient/family)
  - » Psychotherapy”
- “Telepsych is a service provided in the mandatory Medicaid Managed Care program and can be provided only with an approval from OMHSAS. Telepsych may be used to deliver in-plan services when the psychiatrist or licensed psychologist is not physically available to provide an in-plan service in-person or is not available due to location (the clinic is at an unreasonable distance from available providers), after-hour emergencies (evenings, nights, weekends, or holidays), shortage of professionals, or transportation barriers for individual(s). In general, telepsych should be used for those situations where service would otherwise be prevented or delayed.”



## PENNSYLVANIA

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

- “The technology utilized to provide the service must conform to the industry-wide compressed audio-video communication standards for real-time, two-way interactive audio-video transmission.”
- “The individual receiving services must be informed and fully aware of the role of the psychiatrist or licensed psychologist and staff who are going to be responsible for follow-up or on-going care.”
- “The individual receiving services must be informed and aware of the location of the psychiatrist or licensed psychologist providing the care and all questions regarding the equipment, the technology, etc., must be addressed.”
- “All telepsych sites shall have established written quality of care protocols to ensure that the services meet the requirements of state and federal laws and the provider’s established patient care standards.”

[Pennsylvania Dep’t of Public Welfare, Office of Mental Health and Substance Abuse Services Bulletin \(Mar. 2014\).](#)

The MA Program issued another bulletin May 2012 regarding coverage of telemedicine consultations more generally. The bulletin, which applies to physicians, certified registered nurse practitioners, and nurse midwives enrolled in the MA Program’s fee-for-service system, notes that the Department of Public Welfare will allow all physician specialists to render consultations to MA recipients using interactive telecommunication technology. Among other things, the telemedicine consultation must be two-way, real-time, interactive communication between the patient and the physician at the distant site.

[Pennsylvania Dep’t of Public Welfare, Medical Assistance Bulletin \(May 2012\).](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

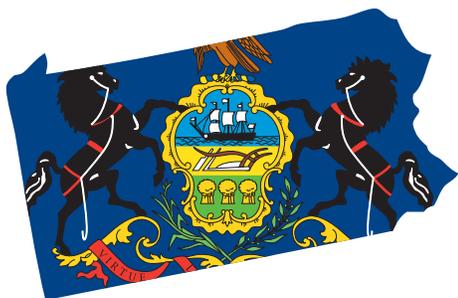
“Controlled substance” means a drug, substance, or immediate precursor included in Schedules I through V of the Controlled Substance, Drug, Device, and Cosmetic Act.

[28 PA. CODE § 25.52.](#)

### What are the requirements/laws governing the prescribing of “controlled” substances”?

The Pennsylvania Code says the following:

- “A prescription for a controlled substance must be issued for a legitimate medical purpose by a licensed practitioner in the usual course of professional practice.”
- “A prescription may not be issued by a practitioner to obtain controlled substances for use in his routine office practice nor for general dispensing to his patients.”
- “A prescription may not be issued for the dispensing of controlled substances listed in any schedule to a drug dependent person for the purpose of continuing his dependence upon such drugs, nor in the course of conducting an authorized clinical investigation in a narcotic dependency rehabilitation program.”



## PENNSYLVANIA

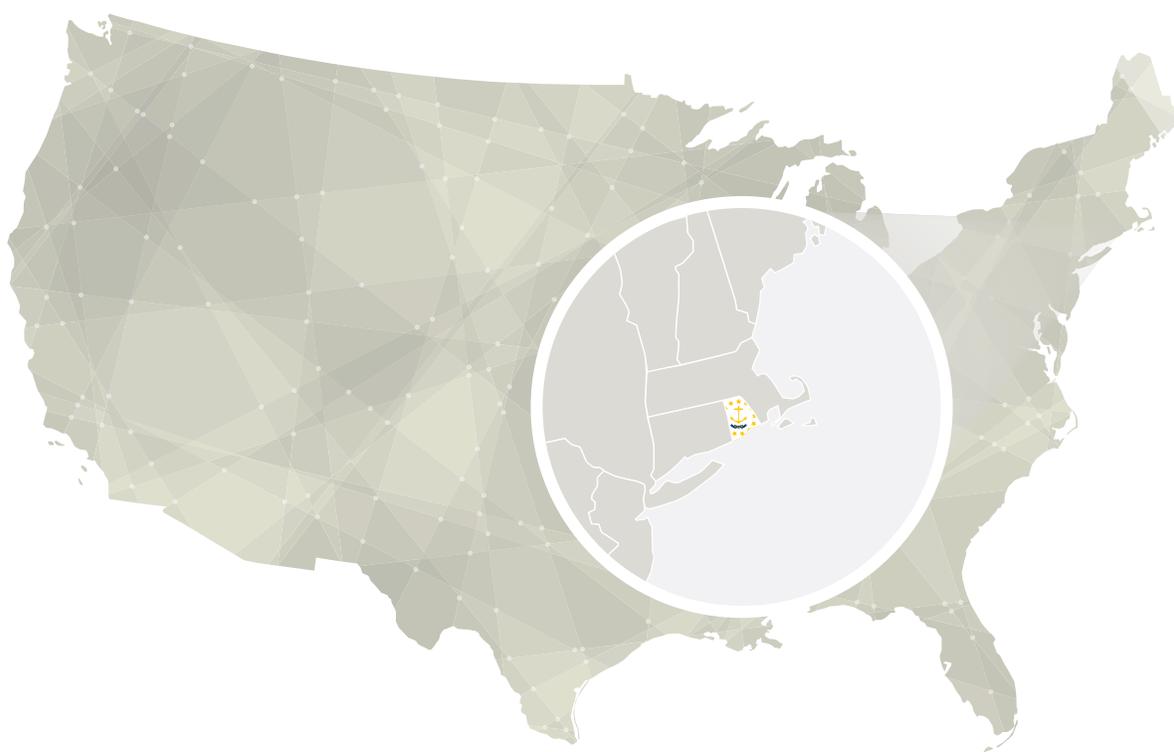
### What are the requirements/laws governing the prescribing of “controlled” substances”? CONTINUED

#### [28 PA. CODE § 25.52.](#)

- a. Prescription orders may be written on prescription blanks or may be oral, if allowed by law.
- b. If prescriptions are issued in writing, the bottom of every prescription blank shall be imprinted with the words “substitution permissible” and shall contain one signature line for the physician’s or other authorized prescriber’s signature. The prescriber’s signature shall validate the prescription, and unless the prescriber handwrites “brand necessary” or “brand medically necessary” shall designate approval of substitution of a drug by a pharmacist, pursuant to the act. Imprinted conspicuously on the prescription blanks shall be the words: IN ORDER FOR A BRAND NAME PRODUCT TO BE DISPENSED, THE PRESCRIBER MUST HANDWRITE “BRAND NECESSARY” OR “BRAND MEDICALLY NECESSARY” IN THE SPACE BELOW.’ Information printed on the prescription blank shall be in 8 point, upper-case print. The following example would be acceptable: SUBSTITUTION PERMISSIBLE[.]

#### [28 PA. CODE § 25.53.](#)

# RHODE ISLAND





## RHODE ISLAND

### What is the definition of “telemedicine” or “telehealth”?

While “telemedicine” does not appear to be defined by Rhode Island’s medical practice act, the Rhode Island Board of Medical Licensure and Discipline has released telemedicine guidance that includes the following definition: “Telemedicine” means “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.\*](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[Rhode Island Board of Medical Licensure and Discipline](#)

### What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

No specific restrictions were identified, but the Board has noted that “electronic communications and interactions between the physician and patient should supplement and enhance, but not replace, crucial interpersonal interactions that create the very basis of the physician-patient relationship” (emphasis added).

[Rhode Island Board of Medical Licensure and Discipline, \*Guidelines for the Appropriate Use of Telemedicine and the Internet In Medical Practice.\*](#)

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Yes. Rhode Island licensure is required if the patient is located in Rhode Island.

The Board has stated that it expects that those delivering telemedicine services to “[m]aintain appropriate licensure (*Rhode Island license is needed if patient is in Rhode Island*).”

[Rhode Island Board of Medical Licensure and Discipline, \*Guidelines for the Appropriate Use of Telemedicine and the Internet In Medical Practice.\*](#)



## RHODE ISLAND

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

In discussing the practitioner-patient relationship, the Board explains:

- The physician should recognize that the patient-physician relationship in telemedicine is inherently different. It is possible, if not probable, that the physician and patient will never meet in-person. It is the physician who has the professional responsibility to consider these differences in his or her evaluation and management of the patient. The beginning of the physician-patient relationship occurs when the physician agrees to undertake the diagnosis and treatment of the patient and the patient agrees, whether or not there has been an in-person encounter between the physician (or other health care practitioner) and the patient.
- Physicians must recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining an appropriate physician-patient relationship, whether or not face-to-face contact between the physician and the patient has occurred. However, whenever a patient's clinical presentation suggests the need for an in-person physical examination, the patient should be referred for an in-person evaluation that is documented in the medical record.
- Evaluating a patient via telemedicine or in-person is a dynamic, interactive experience that should conclude with a customized care plan for the patient relevant to the chief complaint. A documented patient evaluation, including history and physical evaluation adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment recommended and/or provided, must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise. "Physical evaluation" means using the tools and resources available that utilize telemedicine and the Internet appropriately to come to a reasonable diagnostic conclusion.

[Rhode Island Board of Medical Licensure and Discipline, \*Guidelines for the Appropriate Use of Telemedicine and the Internet In Medical Practice.\*](#)

### Does a psychiatrist have prescribing authority?

#### If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

Issuing a prescription based solely on an online questionnaire without an appropriate evaluation does not constitute an acceptable standard of care and is considered unprofessional conduct. Prescribing controlled substances without an established in-person physician-patient relationship is prohibited, barring very limited exceptions.

[Rhode Island Board of Medical Licensure and Discipline, \*Guidelines for the Appropriate Use of Telemedicine and the Internet In Medical Practice.\*](#)

### 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?

No acceptable modalities appear to be specified.



## RHODE ISLAND

### PSYCHOLOGISTS

**What is the regulatory body in the state that governs the practice of psychology?**

[Rhode Island Board of Psychology](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

No criteria appear to be specified.

**Does a psychologist have prescribing authority?  
If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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?**

No acceptable modalities appear to be specified.

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[Rhode Island Board of Social Work Examiners](#)

**What are the restrictions on the scope of practice for social workers practicing via telemedicine /telehealth?**

None identified.



## RHODE ISLAND

**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.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

No criteria appear to be specified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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?**

No acceptable modalities appear to be specified.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[Rhode Island Board of Mental Health Counselors and Marriage and Family Therapists](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

No criteria appear to be specified.

**Does a counselor have prescribing authority? If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.



## RHODE ISLAND

**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?**

No acceptable modalities appear to be specified.

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Rhode Island Board of Mental Health Counselors and Marriage and Family Therapists](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

No criteria appear to be specified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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?**

No acceptable modalities appear to be specified.



## RHODE ISLAND

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Rhode Island Board of Nurse Registration and Nursing Education](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

No criteria appear to be specified.

**Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes, provided applicable requirements are met (see [Rhode Island Rules & Regulations for the Licensing of Nurses § 10.0](#) and [R.I. GEN. LAWS § 5-34-49](#)). No conditions/limits related to APRN prescribing via telemedicine were identified.

**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?**

No acceptable modalities appear to be specified.

### PRIVACY/CONFIDENTIALITY

**What are the specific privacy/confidentiality requirements involving mental health records?**

Rhode Island's Mental Health Law says the following:

“(a) The fact of admission or certification and all information and records compiled, obtained, or maintained in the course of providing services to persons under this chapter shall be confidential.



## RHODE ISLAND

### What are the specific privacy/confidentiality requirements involving mental health records? CONTINUED

(b) Information and records may be disclosed only:

- (1) To any person, with the written consent of the patient or his or her guardian.
- (2) In communications among qualified medical or mental health professionals in the provision of services or appropriate referrals, or in the course of court proceedings. The consent of the patient, or his or her guardian, must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person not employed by the facility who does not have the medical responsibility for the patient's care.
- (3) When the person receiving services, or his or her guardian, designates persons to whom information or records may be released, or if the person is a minor, when his or her parents or guardian make the designation.
- (4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he or she may be entitled.
- (5) To proper medical authorities for the purpose of providing emergency medical treatment where the person's life or health [is] in immediate jeopardy." (See full text of statute for additional circumstances where records may be disclosed).

#### [R.I. GEN. LAWS § 40.1-5-26.](#)

Additionally, Rhode Island regulations pertaining to social workers provide that "[n]o licensee under the Act or an employee of a licensee may disclose any information acquired from clients or persons consulting with the licensee to render professional services except:

- (1) With the written consent of the person(s) or, in the case of death or disability, of the individual's personal representative, or person authorized to sue, or the beneficiary of an insurance policy on an individual's life, health, or physical conditions;
- (2) When there is a clear and present danger to the safety of the patient or client or to other individuals;
- (3) When a person is a minor under the laws of this state and the information acquired by the licensee involves abuse of the minor the licensee is required to report this pursuant to § 40-11-3 and may be required to testify fully in an examination, trial, or other proceeding in which the commission of this crime is the subject of inquiry;
- (4) When the person licensed or certified under the Act is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver is limited to that action;
- (5) When the licensee is called upon to testify in court or administrative hearings concerning the potential for abuse or neglect in foster and adoptive placements; or
- (6) When the licensee is collaborating or consulting with an administrative superior on behalf of the client."

#### [Rhode Island Rules & Regulations for Licensing Clinical Social Workers § 7.1.](#)

### Are there privacy/confidentiality requirements specifically related to telemental/telebehaviorial/telepsychiatric health services?

The telemedicine guidance issued by the Board of Medical Licensure and Discipline (which would apply to at least telepsychiatric services) says the following:



## RHODE ISLAND

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services? CONTINUED

- “Written policies and procedures should be developed and maintained for the use of emails. Polices should address issues such as: (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) anticipated response or turnaround times, (8) quality oversight mechanisms and (9) compliance with HIPAA.
- Sufficient 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 be secure within existing technology (i.e., password protected, encrypted electronic prescriptions, or other reliable authentication techniques). Patient-physician e-mail, as well as other patient-related electronic communications that is pertinent to the diagnosis and treatment of the patient should be stored and filed in the patient’s medical record.
- Turnaround time should be established for patient-physician e-mail and medical practice sites should clearly indicate alternative form(s) of communication for urgent matters.”

*Rhode Island Board of Medical Licensure and Discipline, Guidelines for the Appropriate Use of Telemedicine and the Internet In Medical Practice.*

### MINORS

#### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

No telemedicine-specific requirements related to minors were identified.

### FOLLOW-UP CARE

#### What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

#### 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?

None identified.



## RHODE ISLAND

### 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?**

No.

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

None identified.

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

No. Rhode Island's Medicaid program does not appear to have a definitive reimbursement policy regarding telemedicine.

### CONTROLLED SUBSTANCES

**How are “controlled substances” defined by the state?**

“Controlled substance” is defined as “a drug, substance, immediate precursor, or synthetic drug in schedules I – V of this chapter. The term shall not include distilled spirits, wine, or malt beverages, as those terms are defined or used in chapter 1 of title 3, nor tobacco.”

[R.I. GEN. LAWS § 21-28-1.02](#); see [R.I. GEN. LAWS §§ 21.28.202 through 21.28.208](#)  
(describing the contents of the schedules).



## RHODE ISLAND

### What are the requirements/laws governing the prescribing of “controlled” substances”?

“Every person who manufactures, distributes, prescribes, administers, or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, prescribing, administering, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the director of health in accordance with his or her rules.”

#### [R.I. GEN. LAWS § 21-28-3.02.](#)

- “An apothecary in good faith may sell and dispense controlled substances in schedule II, III, IV and V to any person upon a valid prescription by a practitioner licensed by law to prescribe or administer those substances, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient to whom, or of the owner of the animal for which the substance is dispensed and the full name, address and registration number under the federal law of the person prescribing, if he or she is required by that law to be registered. . . .”
- “A practitioner may sign and transmit electronic prescriptions for controlled substances . . . .”
- “In prescribing controlled substances in schedule II, practitioners may write up to three (3) separate prescriptions, each for up to a one-month supply, each signed and dated on the date written. For those prescriptions for the second and/or third month, the practitioner must write the earliest date each of those subsequent prescriptions may be filled, with directions to the pharmacist to fill no earlier than the date specified on the face of the prescription.”
- “Prescriptions in Schedule III cannot be written for more than one hundred (100) dosage units and not more than one hundred (100) dosage units may be dispensed at one time.”
- “Prescriptions in Schedule IV and V may be written for up to a ninety (90) day supply based on directions. No more than three hundred and sixty (360) dosage units may be dispensed at one time.”
- “For purposes of this section, a ‘dosage unit’ shall be defined as a single capsule, tablet or suppository, or not more than one five (5) ml. of an oral liquid.”
- The statute also includes provisions for dispensing of a controlled substance upon an oral prescription of a practitioner.

#### [R.I. GEN. LAWS § 21-28-3.18.](#)

# SOUTH CAROLINA





## SOUTH CAROLINA

### What is the definition of “telemedicine” or “telehealth”?

The South Carolina Board of Medical Examiners 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.

[Telemedicine Advisory Opinion \(Aug. 2015\).](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[South Carolina Board of Medical Examiners](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

None identified.

However, an out-of-state physician who performs an act that constitutes the practice of medicine on a patient physically located in South Carolina is practicing medicine and must be licensed in South Carolina.

[South Carolina Medical Board of Examiners, Primary Diagnosis by Out-of-State Physicians \(May 1997\).](#)

The 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 South Carolina must be licensed to practice medicine in South Carolina. Licensees need not reside in South Carolina, as long as they have a valid, current South Carolina license.

[Telemedicine Advisory Opinion \(Aug. 2015\).](#)



## SOUTH CAROLINA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Licensees using telemedicine technologies to provide care to patients located in South Carolina must supply an appropriate evaluation before diagnosing and/or treating the patient. This evaluation need not be in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care.

[Telemedicine Advisory Opinion \(Aug. 2015\).](#)

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

However, “prescribing drugs to individuals the physician has never met based solely on answers to a set of questions, as is common in Internet or toll-free telephone prescribing, is inappropriate and unprofessional.”

For prescription purposes, a proper relationship requires, at a minimum, “that the licensee make an informed medical judgment based on the circumstances of the situation and on the licensee’s training and experience and that the licensee:

1. personally perform and document an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan;
2. discuss with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment options; and
3. ensure the availability of the licensee or coverage for the patient for appropriate follow-up care.”

[S.C. CODE ANN. § 40-47-113.](#)

Licensees using telemedicine technologies to provide care to patients located in South Carolina must supply an appropriate evaluation before diagnosing and/or treating the patient. This evaluation need not be in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care.

[Telemedicine Advisory Opinion \(Aug. 2015\).](#)

### 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.



## SOUTH CAROLINA

### PSYCHOLOGISTS

**What is the regulatory body in the state that governs the practice of psychology?**

[South Carolina Board of Examiners in Psychology](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, licensed, out-of-state psychologists must obtain temporary permits from the South Carolina Board of Examiners in Psychology to practice temporarily for a period not to exceed 60 days within a calendar year. These individuals must demonstrate that their home state's licensing requirements are equivalent to those in South Carolina.

[S.C. CODE ANN. § 40-55-110.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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?**

A person is deemed to be practicing as a psychologist when he or she engages in any of the activities specified in South Carolina regulations as those done by psychologist electronically within South Carolina including, but not limited to, by means of the Internet, phone lines, and personal computer modems.

[S.C. CODE ANN. § 40-55-50\(c\).](#)



## SOUTH CAROLINA

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[South Carolina Board of Social Work Examiners](#)

**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)?**

None identified.

However, a license issued by the South Carolina Board of Social Work Examiners is generally required to practice as a social worker in South Carolina.

A person providing social work services to a client in South Carolina, through telephonic, electronic, or other means, regardless of the location of the social worker, who is not licensed in South Carolina, is practicing without a license.

[S.C. CODE ANN. § 40-63-30.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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, the title of Section 40-63-30 of the South Carolina Code says, "License as prerequisite to practice or offer to practice; providing social work services *through telephone or electronic means*" [emphasis added].

[S.C. CODE ANN. § 40-63-30](#)



## SOUTH CAROLINA

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists, and Psycho-Educational Specialists](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, a license issued by the South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists is generally required to practice as a counselor in South Carolina.

[S.C. CODE ANN. § 40-75-30.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[South Carolina Board of Examiners for Licensure of Professional Counselors, Marriage and Family Therapists and Psycho-Educational Specialists](#)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

See Counselors section above.



## SOUTH CAROLINA

**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?**

*See Counselors section above.*

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

*See Counselors section above.*

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

*See Counselors section above..*

**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?**

*See Counselors section above.*

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[South Carolina Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

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. § 40-33-35.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.



## SOUTH CAROLINA

### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes.

An APRN may electronically transmit a prescription to a pharmacy if all the following conditions are met:

1. A valid practitioner/patient relationship must exist.
2. The prescription must identify the transmitter's phone number, the time and date of transmission, and the pharmacy intended to receive the transmission and any other information required by federal or state law.
3. The prescription must be transmitted by the authorized practitioner or the practitioner's designated agent to the pharmacy of the patient's choice, and the prescription must be received only by a pharmacy, with no intervening person or entity having access to view, read, manipulate, alter, store, or delete the electronic prescription prior to its receipt at the pharmacy.
4. The prescription must be transmitted to the pharmacy of the patient's choice. If the pharmacy of the patient's choice is not equipped with the capability to accept an electronic prescription, the practitioner shall provide the patient with a written prescription, telephone an oral prescription, or transmit via facsimile to the pharmacy of the patient's choice.
5. The prescription must have the practitioner's electronic or digital signature or key code.
6. The prescription must be sent directly from the practitioner to the receiving pharmacy of the patient's choice. If an electronic prescription is printed out, it must possess an original handwritten signature before being delivered to a patient. If a prescription is a hard copy prescription drug order generated from electronic media, a prescribing practitioner's electronic or manual signature must be present. Prescriptions with electronic signatures must be applied to paper that utilizes security features that will ensure the prescription drug order is not subject to any form of copying or alteration.

[S.C. CODE ANN. § 44-117-320.](#)

### 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.

## PRIVACY/CONFIDENTIALITY

### What are the specific privacy/confidentiality requirements involving mental health records?

Physicians are expected to comply with all confidentiality requirements applicable to patient records.

"Except as otherwise provided by law, a physician shall not honor a request for the release of copies of medical records without the receipt of express written consent of the patient or person authorized by law to act on behalf of the patient."

[S.C. CODE ANN. § 44-115-40.](#)



## SOUTH CAROLINA

**Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?**

None identified.

### 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. 2-57 \(](#)

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.

**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?**

None identified.

### 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.



## SOUTH CAROLINA

### Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.

### 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."

"Telemedicine 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. 2-54 \(April 2016\).](#)

South Carolina Medicaid will reimburse for live telemedicine and telepsychiatry.

Eligible services include the following:

- Office or other outpatient visits
- Inpatient consultation
- Individual psychotherapy
- Pharmacologic management
- Psychiatric diagnostic interview examination and testing
- Neurobehavioral status examination
- Electrocardiogram interpretation and report only
- Echocardiography

[South Carolina Department of Health and Human Services, Physicians Provider Manual, sec. 2, p. 2-56 \(April 2016\).](#)

Eligible services must meet these requirements:

- "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;
- The medical care can be safely furnished, and no equally effective and more conservative or less costly treatment is available statewide."

Practitioners at the distant site who may furnish and receive payment of covered telemedicine services include physicians and nurse practitioners.

[South Carolina Department of Health and Human Services, Physicians Provider Manual, sec. 2, p. 2-55 \(April 2016\).](#)



## SOUTH CAROLINA

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

South Carolina defines the term “controlled substance” as “a drug, substance, or immediate precursor in Schedules I through V . . .”

[S.C. CODE ANN. § 44-53-110.](#)

#### 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.”

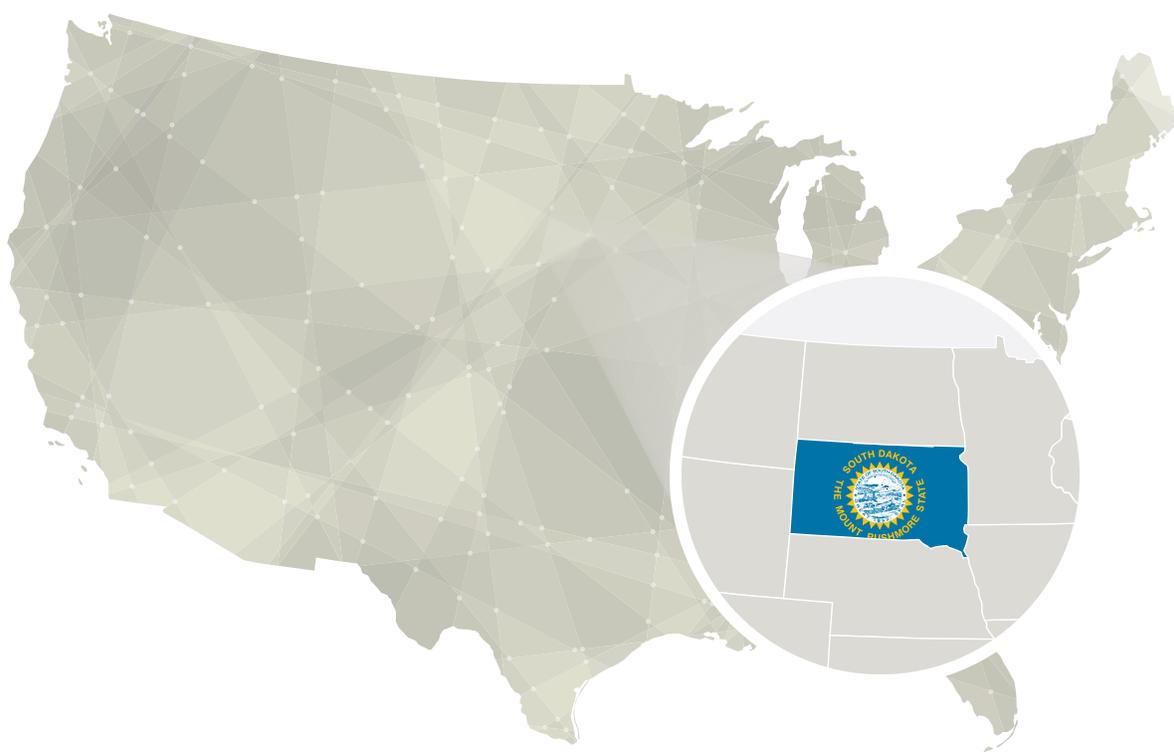
[S.C. CODE ANN. REGS. § 61-4-1902.](#)

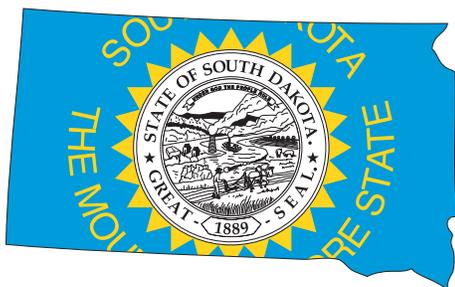
“All prescriptions for controlled substances shall be dated as of the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use and the name, address, and registration number of the practitioner.

- 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.](#)

# SOUTH DAKOTA





## SOUTH DAKOTA

### What is the definition of “telemedicine” or “telehealth”?

The South Dakota Medicaid program defines “telemedicine” as “the use of an interactive telecommunications system to provide two-way, real-time, interactive communication between a provider and a Medicaid recipient across a distance.”

[South Dakota Medicaid, Professional Services Billing Manual \(Jan. 2016\).](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[South Dakota Board of Medical & Osteopathic Examiners](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

None identified.

However, an applicant who holds a valid medical license issued by another state can be licensed through reciprocity in South Dakota if the applicant:

- has completed a residency program in the United States or Canada,
- has passed one of the listed licensure examinations,
- is in good standing with his or her state’s professional board, and
- has completed a state and federal criminal background investigation.

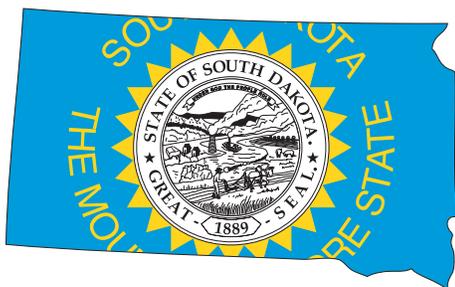
[S.D. ADMIN. R. 20-78:03:12.](#)

“Any non-resident physician, while located outside this state, provides diagnostic or treatment services through electronic means to a patient located in this state under a contract with a health care provider licensed under Title 36, a clinical located in this state that provides health services, a health maintenance organization, a preferred provider organization, or a health care facility licensed under 34-12, is engaged in the practice of medicine in this state.”

[S.D. CODIFIED LAWS § 36-4-41](#)

South Dakota has adopted the Federation of State Medical Boards’ Interstate Medical Licensure Compact. The Interstate Medical Licensure Compact was enacted into law and entered into with all the other jurisdictions that legally joined the compact.

[S.D. CODIFIED LAWS § 36-4-44.](#)



## SOUTH DAKOTA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

“Prescribing intoxicants, narcotics, barbiturates, or other habit-forming drugs to any person in quantities and under circumstances making it apparent to the [South Dakota Board of Medical & Osteopathic Examiners] that the prescription was not made for legitimate medicinal purposes or prescribing in a manner or in amounts calculated in the opinion of the board to endanger the well-being of an individual patient or the public in general.”

[S.D. CODIFIED LAWS § 36-4-30\(9\).](#)

No telehealth-specific conditions/limits identified.

### 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.

## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[South Dakota Board of Examiners of Psychologists](#)

### What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

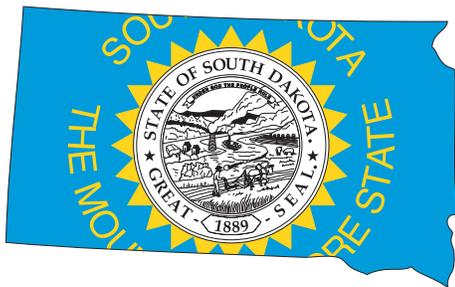
None identified.

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

None identified.

However, a psychologist licensed by another state, or by a province of Canada, may practice in South Dakota for a maximum of six months, during which time the psychologist's credentials will be reviewed and his or her application for licensing accepted or denied. Within 30 calendar days after commencing practice in South Dakota, the psychologist must apply to the Board of Examiners of Psychologists for licensing.

[S.D. CODIFIED LAWS § 36-27A-11.](#)



## SOUTH DAKOTA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

However, the psychologist must give a truthful, understandable, and appropriate account of the client's condition to the client or to those responsible for the care of the client. The psychologist must keep the client fully informed regarding the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided.

[S.D. ADMIN. R. 20:60:07:01](#) (from [Association of State & Provincial Psychology Boards, Code of Conduct \(rev. 2005\)](#)).

### Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

No.

### 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.

## SOCIAL WORKERS

### What is the regulatory body in the state that governs the practice of social work?

[South Dakota Department of Social Services](#)

### 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)?

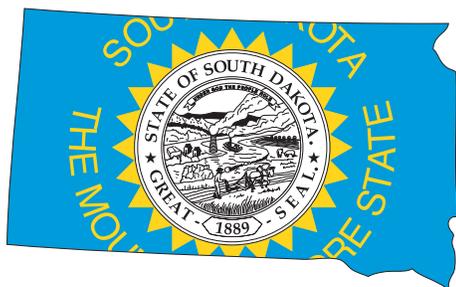
None identified.

However, a license issued by the South Dakota Department of Social Services is generally required to practice as a social worker in South Dakota, unless certain exemptions are satisfied.

[S.D. CODIFIED LAWS § 36-26-18.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.



## SOUTH DAKOTA

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[South Dakota Counselors and Marriage and Family Therapist Examiners](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

However, a license issued by the South Dakota Counselors and Marriage and Family Therapist Examiners is generally required to practice as a counselor in South Dakota.

[S.D. CODIFIED LAWS § 36-32-16.](#)

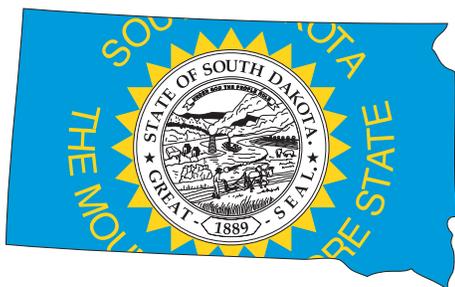
**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

Counselors must inform clients of the benefits and limitations of using technology applications in the provision of counseling services.

“In addition to the usual and customary protocol of informed consent between counselor and client for face-to-face counseling, the following issues, unique to the use of distance counseling, technology, and/or social media, are addressed in the informed consent process:

- distance counseling credentials, physical location of practice, and contact information
- risks and benefits of engaging in the use of distance counseling, technology, and/or social media
- possibility of technology failure and alternative methods of service delivery
- anticipated response time
- emergency procedures to follow when the counselor is not available
- time zone differences
- cultural and/or language differences that may affect delivery of services.
- possible denial of insurance benefits; and
- social media policy.”

[S.D. ADMIN. R. 20-73-07:01](#) (from [American Counseling Association, 2014 ACA Code of Ethics](#)).



## SOUTH DAKOTA

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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, South Dakota regulations reference the American Counseling Association's 2014 Code of Ethics, which states that technologies include, but are not limited to, computer hardware and/or software, telephones and applications, social media and Internet-based applications, and other audio and/or video communication or data storage devices or media.

[S.D. ADMIN. R. 20-73-07:01](#) (from [American Counseling Association, 2014 ACA Code of Ethics](#)).

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[South Dakota Counselors and Marriage and Family Therapist Examiners](#)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

A marriage and family therapist must comply with the ethical standards in the American Association for Marriage and Family Therapy (AAMFT) Code of Ethics.

[S.D. ADMIN. R. 20:71:07:01](#).

The AAMFT Code of Ethics provides, in part, that “[p]rior to commencing therapy services through electronic means (including but not limited to phone and Internet), marriage and family therapists ensure that they are compliant with all relevant laws for the delivery of such services. Additionally, marriage and family therapist must: (a) determine that electronic therapy is appropriate for clients, taking into account the clients intellectual, emotional, and physical needs; (b) inform clients of the potential risks and benefits associated with electronic therapy; (c) ensure the security of their communication medium; and (d) only commence electronic therapy after appropriate education, training, or supervised experience using the relevant technology.”

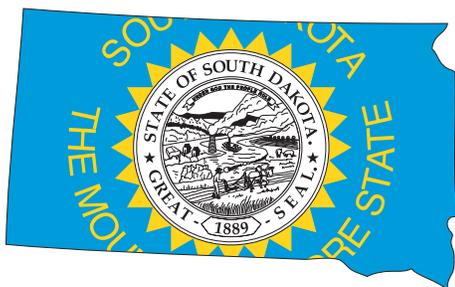
[American Association for Marriage and Family Therapy, Code of Ethics \(July 2012\)](#).

**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 Dakota Counselors and Marriage and Family Therapist Examiners is generally required to practice as a marriage and family therapist in South Dakota.

[S.D. CODIFIED LAWS § 36-33-18](#).



## SOUTH DAKOTA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

However, informed consent is required before establishing any practitioner-patient relationship.

A marriage and family therapist must comply with the ethical standards in the AAMFT Code of Ethics.

[S.D. ADMIN. R. 20:71:07:01.](#)

The AAMFT Code of Ethics provides, in part, that “[m]arriage and family therapists [must] obtain appropriate informed consent to therapy or related procedures and use language that is reasonably understandable to clients. The content of informed consent may vary depending upon the client and treatment plan; however, informed consent generally necessitates that the client: (a) has the capacity to consent; (b) has been adequately informed of significant information concerning treatment processes and procedures; (c) has been adequately informed of potential risks and benefits of treatments for which generally recognized standards do not yet exist; (d) has freely and without undue influence expressed consent; and (e) has provided consent that is appropriately documented. When persons, due to age or mental status, are legally incapable of giving informed consent, marriage and family therapists obtain informed permission from a legally authorized person, if such substitute consent is legally permissible.”

[American Association for Marriage and Family Therapy, Code of Ethics \(July 2012\).](#)

### Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

### 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?

Acceptable modalities include, but are not limited to, the use of the Internet and telephone.

A marriage and family therapist must comply with the ethical standards in the AAMFT Code of Ethics.

[S.D. ADMIN. R. 20:71:07:01.](#)

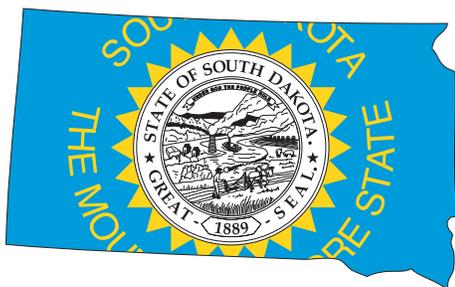
The AAMFT Code of Ethics provides, in part, that “[p]rior to commencing therapy services through electronic means (including but not limited to phone and Internet), marriage and family therapists ensure that they are compliant with all relevant laws for the delivery of such services. Additionally, marriage and family therapist must: (a) determine that electronic therapy is appropriate for clients, taking into account the clients intellectual, emotional, and physical needs; (b) inform clients of the potential risks and benefits associated with electronic therapy; (c) ensure the security of their communication medium; and (d) only commence electronic therapy after appropriate education, training, or supervised experience using the relevant technology.”

[American Association for Marriage and Family Therapy, Code of Ethics \(July 2012\).](#)

## ADVANCED PRACTICE REGISTERED NURSES (APRNs)

### What is the regulatory body in the state that governs the practice of advanced practice nursing?

[South Dakota Board of Nursing](#)



## SOUTH DAKOTA

### What are the restrictions on the scope of practice for APRNs 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)?

None identified.

However, a license issued by the South Dakota Board of Nursing is generally required to practice as an APRN in South Dakota.

[S.D. CODIFIED LAWS § 36-9-32.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes.

No telehealth-specific conditions/limits identified.

### 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?

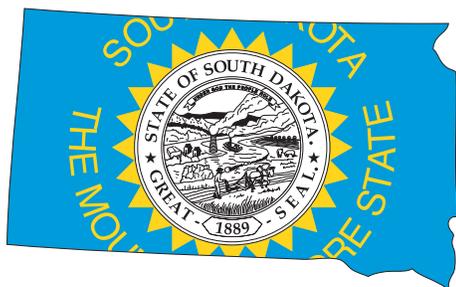
None identified.

## PRIVACY/CONFIDENTIALITY

### What are the specific privacy/confidentiality requirements involving mental health records?

“A complete statistical and medical record shall be kept current for each person receiving mental health services, or being otherwise detained under this title. The record shall include information pertinent to the services provided to the person, pertinent to the legal status of the recipient, required by this title or other provision of law, and required by rules or policies. The material in the record shall be confidential in accordance with the provisions of this title.”

[S.D. CODIFIED LAWS § 27A-12-25.](#)



## SOUTH DAKOTA

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.

### MINORS

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

### FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

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?

None identified.

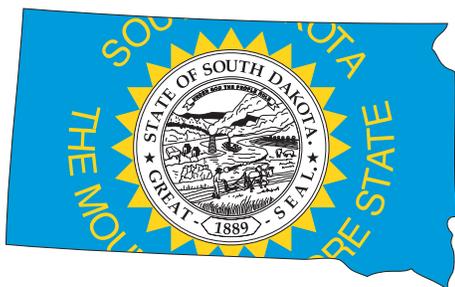
### COVERAGE & REIMBURSEMENT

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.

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.



## SOUTH DAKOTA

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

South Dakota Medicaid covers and will reimburse for the following services at the same rate as in-person services:

- patient office consultations
- inpatient hospital consultations
- pharmacologic management
- office or other outpatient visits
- diabetes outpatient self-management education services

All telemedicine services provided must comply with South Dakota Medicaid's out-of-state prior authorization requirements.

[South Dakota Medicaid, Professional Services Billing Manual \(Jan. 2016\).](#)

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

South Dakota statutes define “controlled drug or substance” as “a drug, substance, or immediate precursor in Schedules I through IV of §§ 34-20B-11 to 34-20B-26, inclusive.”

[S.D. CODIFIED LAWS § 34-20B-3.](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances?”

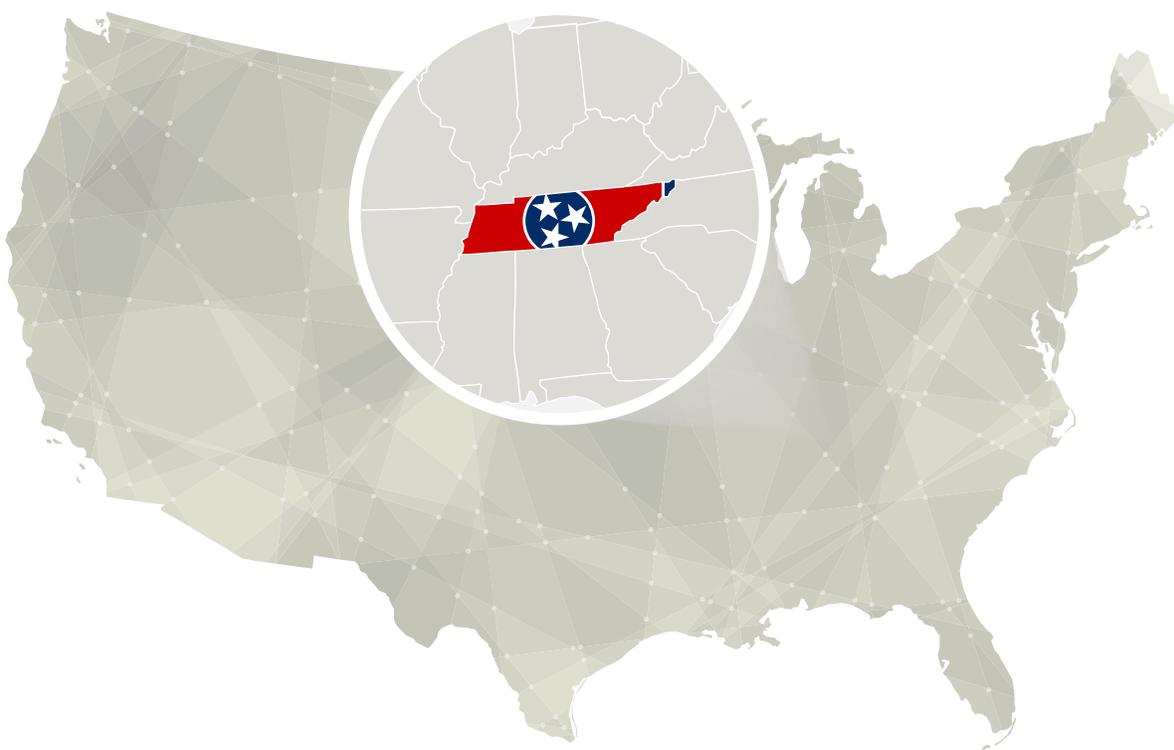
“Any person who prescribes, manufactures, distributes, or dispenses any controlled drug or substance within this state or who proposes to engage in the prescribing, manufacture, distribution, or dispensing of any controlled drug or substance within this state, shall obtain a registration issued by the department according to the rules promulgated under this chapter.”

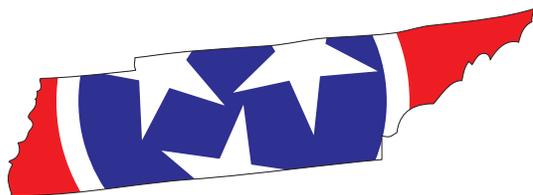
[S.D. CODIFIED LAWS § 34-20B-29.](#)

“The board shall establish and maintain a prescription drug monitoring program to monitor the prescribing and dispensing of all controlled substances. The program shall utilize a central repository, to which each dispenser shall submit, by electronic means, information regarding each prescription dispensed for a controlled substance. The information submitted for each prescription shall include specifically identified data elements adopted by the board . . . .”

[S.D. CODIFIED LAWS § 34-20E-2.](#)

# TENNESSEE



**TENNESSEE****What is the definition of “telemedicine” or “telehealth”?**

Under Tennessee’s medical practice regulations, “telemedicine” is defined as follows:

- a. The rendering of a written or otherwise documented 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.

[TENN. COMP. R. & REGS. 0880-02-.16.](#)

**What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?**

None identified.

**PSYCHIATRISTS****What is the regulatory body in the state that governs the practice of psychiatry?**

[Tennessee Board of Medical Examiners](#)

**What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?**

None identified.

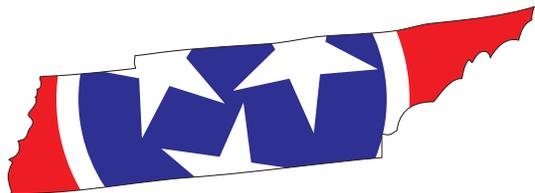
**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?**

Yes, a telemedicine license or a license to practice medicine or osteopathy issued by the Tennessee Board of Medical Examiners is required, with limited exceptions.

No person can practice of medicine across state lines in Tennessee, hold himself or herself out as qualified to do the same, or use any title, word, or abbreviation to indicate, or induce others to believe, that he or she is licensed to practice medicine across state lines in Tennessee unless he or she is actually so licensed.

However, the following persons (among others) are exempt from this telemedicine licensure requirement:

- (b) A physician who engages in the practice of medicine across state lines that occurs less than once a month or involves fewer than ten patients on an annual basis, or comprises less than one percent (1%) of the physician’s diagnostic or therapeutic practice; or
- (c) Physicians who engage in the practice of medicine across state lines without compensation or expectation of compensation unless the practice exceeds the limits established by [the paragraph directly above]; or
- (d) The informal practice of medicine in the form of uncompensated consultations regardless of their frequency; or

**TENNESSEE**

**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?** CONTINUED

- (e) Licensed/registered physicians or surgeons of other states when called in consultation by a Tennessee licensed/registered physician . . .

[TENN. COMP. R. & REGS. 0880-02-.16.](#)

Additionally, the Tennessee Medical Practice Act's licensure requirement does not apply to any registered physician or surgeon of other states when called in consultation by a registered physician of Tennessee.

[TENN. CODE ANN. § 63-6-204\(a\)\(3\).](#)

With respect to transferring medical information outside the state, the Tennessee Medical Practice Act provides that the 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 transfer 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](#); *see also* [TENN. CODE ANN. § 63-6-214](#), 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 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?**

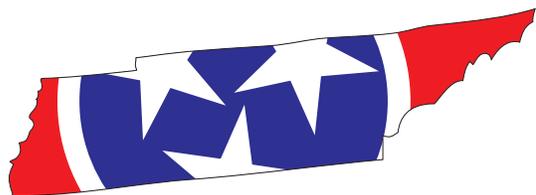
None identified.

**Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?**

Yes.

Tennessee Medical Board regulations regarding the position on Internet prescribing/dispensing of drugs are as follows:

- a. Barring some exceptions (e.g., the Board may take disciplinary action against licensees for unprofessional conduct, malpractice or ignorant/incompetent practice, and dispensing/prescribing controlled substances not in good faith and outside the course of professional practice), a physician may not “prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the physician has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:
  1. Performed an appropriate history and physical examination; and
  2. Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good medical care; and
  3. Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensing drug, with the patient; and
  4. Insured availability of the physician or coverage for the patient for appropriate follow-up care.”

**TENNESSEE**

**Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?** CONTINUED

- b. A physician “may prescribe or dispense drugs for a person not in compliance with subparagraph (a) in circumstances including, but not limited to, the following:
1. In admission orders for a newly hospitalized patient; and
  2. For a patient of another physician for whom the prescriber is taking calls; and
  3. For continuation medications on a short-term basis for a new patient prior to the patient’s first appointment; and
  4. For established patients who, based on sound medical practices, the physician feels does not require a new physical examination before issuing new prescriptions . . . .”
- c. It will be a prima facie violation of Tennessee law for a physician to prescribe or dispense any drug to any individual the physician has never met based solely on answers to a set of questions regardless of whether the prescription is issued directly to the person or electronically over the Internet or telephone lines.

[TENN. COMP. R. & REGS. 0880-02-.14.](#)

**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.

**PSYCHOLOGISTS**

**What is the regulatory body in the state that governs the practice of psychology?**

[Tennessee Board of Examiners of Psychology](#)

**What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?**

None identified.

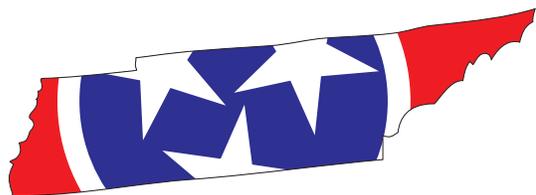
**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?**

Yes, a license issued by the Tennessee Board of Examiners of Psychology is required, with limited exceptions.

The Tennessee Psychology Practice Act provides that “[t]he board may permit a psychologist licensed in good standing in another state, who meets standards acceptable to the board, to perform the functions of §§ 63-11-203 [(defines practice of a psychologist)] . . . and practice as a psychologist in Tennessee without possessing a current license for a period of time, not to exceed twelve (12) days per year, for such purposes as special training or consultation, special evaluation and/or intervention or serving as an expert witness. Nothing in this section shall be construed to permit the regular, repetitive or ongoing provision of psychological services, the supervision of psychological services or the solicitation or advertisement of services to the general public, all of which are governed by the usual and customary processes of licensure for psychologists.”

[TENN. CODE ANN. § 63-11-211\(b\)\(5\)](#); see also [TENN. COMP. R. & REGS. 1180-02-.05](#).

**TENNESSEE**



**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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.

**SOCIAL WORKERS**

**What is the regulatory body in the state that governs the practice of social work?**

[Tennessee Board of Social Workers](#)

**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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

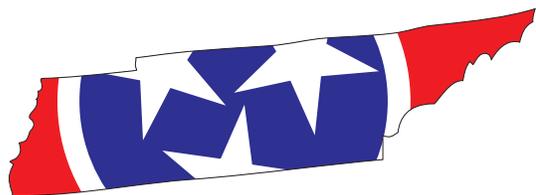
None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.

**TENNESSEE****COUNSELORS**

**What is the regulatory body in the state that governs the practice of counseling?**

[Tennessee Board of Licensed Professional Counselors, Licensed Marital and Family Therapists and Licensed Pastoral Therapists](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

**MARRIAGE/FAMILY  
THERAPISTS**

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

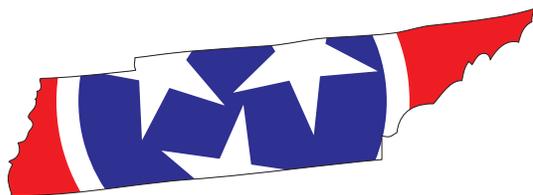
[Tennessee Board of Licensed Professional Counselors, Licensed Marital and Family Therapists and Licensed Pastoral Therapists](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

**TENNESSEE****What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

However, Tennessee regulations governing marital and family therapists state that “all licensees and certificate holders who practice marital and family therapy electronically shall comply with the Online Ethical Advisory Opinions adopted by the AAMFT [American Association for Marriage and Family Therapy], [www.aamft.org](http://www.aamft.org), except to the extent that they conflict with the laws of the state of Tennessee or the rules of the Board. If the standards for the ethical practice of marital and family therapy over the Internet conflict with state law or rules, the state law or rules govern the matter. Violation of the standards for the ethical practice of marital and family therapy over the Internet or state law or rules may subject a licensee or certificate holder to disciplinary action.”

[TENN. COMP. R. & REGS. 0450-02-.13.](#)

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

**ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Tennessee Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?**

None identified.

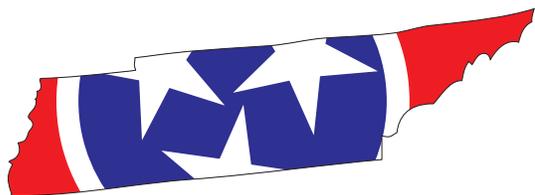
**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

However, Tennessee Board of Nursing guidance sets forth specific requirements that must be met before an APRN may prescribe via telemedicine (discussed below).

**TENNESSEE**

**Does an APRN have prescribing authority?  
If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

In order to prescribe in Tennessee, an APRN must obtain a certificate to prescribe from the Tennessee Board of Nursing and comply with all requirements in the applicable regulations (e.g., [TENN. COMP. R. & REGS. 1000-04-.04](#)).

Tennessee Board of Nursing regulations list the following prerequisites (among others) to prescribing/dispensing medications:

1. Barring some exceptions, it violates Tennessee law for an APRN, having proper authority to prescribe, to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the APRN “has completed and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:
  - (a) Performed an appropriate history and physical examination; and
  - (b) Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good health care; and
  - (c) Formulated a therapeutic plan, and discussed it, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensed drug, with the patient; and
  - (d) Insured availability of the Advanced Practice Nurse with proper authority to prescribe, or coverage for the patient for appropriate follow-up care.”
2. An APRN may prescribe or dispense drugs for a person not described above “consistent with sound judgment, examples of which are as follows:
  - (a) In admission orders for a newly hospitalized patient; or
  - (b) For a patient of a physician or of an Advanced Practice Nurse with proper authority to prescribe for whom the prescriber is taking calls or for whom the prescriber has verified the appropriateness of the medication; or
  - (c) For continuation medications on a short-term basis for a new patient prior to the patient's first appointment; or
  - (d) For established patients who the APRN believes do not require a new physical examination before issuing new prescriptions.”

[TENN. COMP. R. & REGS. 1000-04-.09.](#)

**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?**

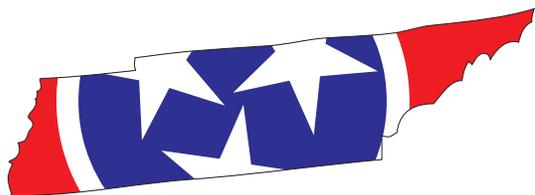
None identified.

**PRIVACY/CONFIDENTIALITY**

**What are the specific privacy/confidentiality requirements involving mental health records?**

Tennessee's mental health statutory provisions state:

- “All applications, certificates, records, reports, legal documents, and pleadings made and all information provided or received in connection with services applied for, provided under, or regulated under this title and directly or indirectly identifying a service recipient or former service recipient shall be kept confidential and shall not be disclosed by any person except in compliance with this part.”

**TENNESSEE****What are the specific privacy/confidentiality requirements involving mental health records?** CONTINUED

- “Information that is confidential under § 33-3-103 may be disclosed without consent of the service recipient if:
  1. Disclosure is necessary to carry out duties under this title;
  2. Disclosure may be necessary to assure service or care to the service recipient by the least drastic means that are suitable to the service recipient’s liberty and interests;
  3. As a court orders, after a hearing, upon its determination that disclosure is necessary for the conduct of proceedings before it and that failure to make the disclosure would be contrary to public interest or to the detriment of a party to the proceedings;
  4. It is solely information as to a residential service recipient’s overall medical condition without clinical details and is sought by the service recipient’s family members, relatives, conservator, legal guardian, legal custodian, guardian ad litem, foster parents, or friends;
  5. A service recipient moves from one service provider to another and exchange of information is necessary for continuity of service; or
  6. A custodial agent for another state agency that has legal custody of the service recipient cannot perform the agent’s duties properly without the information.”
- Note that a “service recipient” means a person who is receiving service, has applied for service, or for whom someone has applied for or proposed service because the person has mental illness, serious emotional disturbance, or a developmental disability.

[TENN. CODE ANN. § 33-3-103](#) (see full text of statute for further detail).

**Are there privacy/confidentiality requirements specifically related to telemental/telebehaviorial/telepsychiatric health services?**

Yes.

Tennessee’s medical practice regulations governing telemedicine provide that anyone issued a special purpose license to practice medicine across state lines must comply with all applicable laws, rules, and regulations of this state governing the maintenance of patient medical records, including patient confidentiality requirements.

[TENN. COMP. R. & REGS. 0880-02-.16.](#)

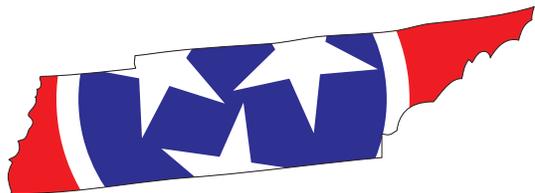
**MINORS****What are the requirements/restrictions regarding the provision of telemental/telebehaviorial/telepsychiatric health services to minors?**

None identified.

**FOLLOW-UP CARE****What are the requirements regarding follow-up care for telemental/telebehaviorial/telepsychiatric health services?**

Physicians may not prescribe/dispense drugs, whether in person or by electronic means or over the Internet or over telephone lines unless the physician has first insured availability of the physician or coverage for the patient for appropriate follow-up care (and appropriately documented same).

[TENN. COMP. R. & REGS. 0880-02-.14.](#)

**TENNESSEE**

**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?**

None identified.

### 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.

Tennessee insurance law provisions state the following:

A health insurance entity:

1. must provide coverage under a health insurance policy or contract for covered health care services delivered through telehealth;
2. must reimburse a health care services provider for the diagnosis, consultation, and treatment of an insured patient for a health care service covered under a health insurance policy or contract that is provided through telehealth;
3. cannot exclude from coverage a health care service solely because it is provided through telehealth; and
4. must reimburse health care services providers that are out-of-network for telehealth care services under the same reimbursement policies applicable to other out-of-network health care services providers.

A health insurance entity must provide coverage for health care services supplied during a telehealth encounter in a manner that is consistent with what the health insurance policy or contract provides for in-person encounters for the same service.

There is no requirement that a health insurance entity “pay total reimbursement for a telehealth encounter, including the use of telehealth equipment, in an amount that exceeds the amount that would be paid for the same service provided by a healthcare services provider in an in-person encounter.”

[TENN. CODE ANN. § 56-7-1002.](#)

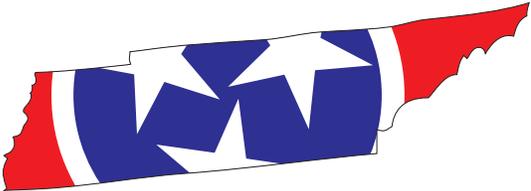
**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

None identified.

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

Tennessee’s Medicaid program (TennCare) is offered through managed care entities. The parity provisions described above state that a “health insurance entity” includes managed care organizations participating in the medical assistance program under title 71, chapter 5. No additional specific coverage criteria were identified.



## TENNESSEE

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Tennessee defines the term “controlled substance” to mean “a drug, substance, or immediate precursor in Schedules I through VII of §§ 39-17-403 - 39-17-416.”

[TENN. CODE ANN. § 39-17-402.](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances”?

Tennessee’s Board of Pharmacy rules require that “[a]ll prescribers with DEA numbers who prescribe controlled substances, and all dispensers in practice who provide direct care to patients in Tennessee for more than fifteen (15) calendar days per year, [to be registered in the state’s controlled substance database].”

The following are limited exceptions:

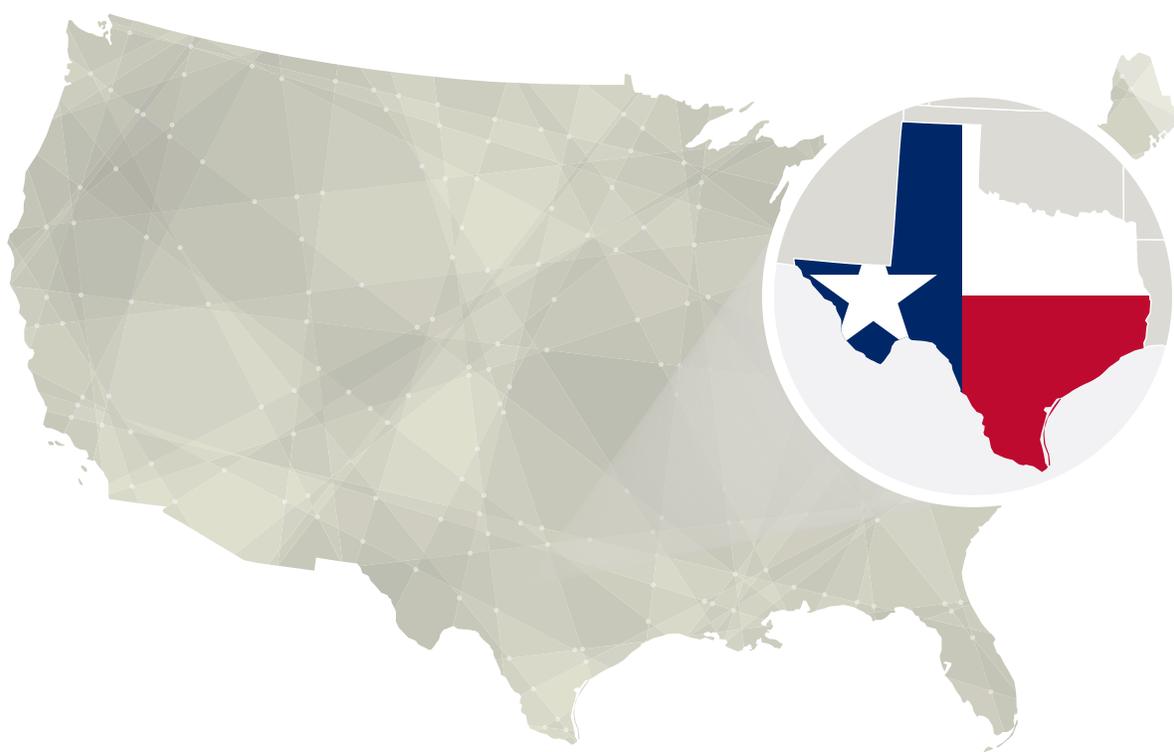
- (1) All prescribers or their designated healthcare practitioner’s extenders, unless otherwise exempted by T.C.A. Title 53, Chapter 10, part 3, shall check the database prior to prescribing one of the controlled substances identified below in paragraph (3) to a human patient at the beginning of a new episode of treatment and shall check the database for the human patient at least annually when that prescribed controlled substance remains part of treatment. . . .
- (3) The controlled substances which trigger a check of the database pursuant to paragraph (1) above include, but are not limited to, all opioids and benzodiazepines.

[TENN. RULES & REGS. 1140-11-.01 et seq.](#)

The Tennessee Medical Practice Act provides that “[a]ny written, printed or computer-generated order for a Schedule II controlled substance prepared by a physician or surgeon who is authorized by law to prescribe a drug must be legibly printed or typed as a separate prescription order. The written, printed or computer-generated order must contain all information otherwise required by law. The prescribing physician or surgeon must sign the written, printed or computer-generated order on the day it is issued. Nothing in this section shall be construed to prevent a physician or surgeon from issuing a verbal prescription order.”

[TENN. CODE ANN. § 63-6-239.](#)

# TEXAS





## TEXAS

### What is the definition of “telemedicine” or “telehealth”?

Texas Medical Board regulations provide the following definition:

“Telemedicine medical service” means “[t]he practice of medical care delivery, initiated by a distant site provider, who is physically located at a site other than the site where the patient is located, for the purposes of evaluation, diagnosis, consultation, or treatment which requires the use of advanced telecommunications technology that allows the distant site provider to see and hear the patient in real time.”

[22 TEX. ADMIN. CODE § 174.2.](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[Texas Medical Board](#)

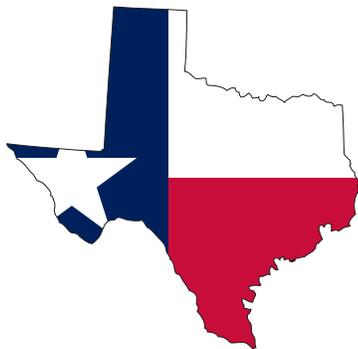
### What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

If a patient is being seen for the very first time by a distant site provider, or is presenting with a new condition, telemedicine may only be used at a location that has qualified staff present and sufficient technology and medical equipment to allow the distant site provider to conduct an adequate physical evaluation. Such a location is referred to under the Texas Medical Board rules as an “established medical site.”

“If not at an established medical site, a distant site provider will be permitted to provide medical care using telemedicine, contingent upon the following requirements being met:

- *Follow up care for an established patient’s previously diagnosed condition.* The provider will be allowed to provide telemedicine care to a patient at a site other than an established medical site, contingent upon the provider having previously diagnosed the condition either through an in-person evaluation (meaning, while at the same physical location as the patient) or an evaluation conducted at an established medical site.
- *Referral by a physician who completed a proper evaluation.* The provider will be allowed to provide telemedicine care to a patient at a site other than an established medical site, contingent upon the patient having received an evaluation either in-person or at an established medical site by another physician who referred the patient to the provider for additional care.
- *Established patient with new condition advised to seek appropriate follow up care.* The provider will be allowed to provide telemedicine care for an established patient’s new condition at a site other than an established medical site, if the distant site provider advises the patient to see a physician (either at an established medical site or in-person) within 72 hours if the symptoms do not resolve, and provides no additional care for such symptoms if the patient is not seen by such a physician.”

[Texas Medical Board, FAQs: Telemedicine](#)



## TEXAS

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Yes, an out-of-state telemedicine license or a license to practice medicine issued by the Texas Medical Board is required, with limited exceptions.

“Physicians who treat and prescribe through advanced communications technology are practicing medicine and must possess appropriate licensure in all jurisdictions where their patients presently reside. An out-of-state physician may provide episodic consultations without a Texas medical license, as provided in Texas Occupations Code, § 151.056 and § 172.12(f) of this title (relating to Out-of-State Telemedicine License-Exemptions)” (see detail below regarding these referenced provisions).

#### [22 TEX. ADMIN. CODE § 174.12.](#)

The Texas Medical Board issues out-of-state telemedicine licenses. The relevant regulatory section regarding these licenses states the following:

“A person may not engage in the practice of medicine across state lines in this State, hold oneself as qualified to do the same, or use any title, word, or abbreviation to indicate or induce others to believe that one is licensed to practice across state lines in this state unless the person is actually so licensed.”

However, the following activities (among others) are exempt from the requirements of an out-of-state telemedicine license:

- “episodic consultation by a medical specialist located in another jurisdiction who provides such consultation services on request to a person licensed in this state”;
- “informal consultation performed by a physician outside the context of a contractual relationship and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation”; and
- “furnishing of medical assistance by a physician in case of an emergency or disaster if no charge is made for the medical assistance.”

Additionally, “[a]n out-of-state telemedicine license to practice medicine across state lines shall be limited exclusively to the interpretation of diagnostic testing and reporting results to a physician fully licensed and located in Texas or for the follow-up of patients where the majority of patient care was rendered in another state, and the license holder shall practice medicine in a manner so as to comply with all other statutes and laws governing the practice of medicine in the state of Texas. Unless a person holds a current full license to practice medicine in this state pursuant to this chapter and the provisions of the [Texas] Medical Practice Act, Chapter 155 (relating to License to Practice Medicine), a person holding an out-of-state telemedicine license shall not be authorized to physically practice medicine in the state of Texas.”

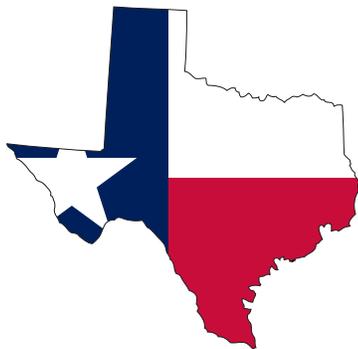
#### [22 TEX. ADMIN. CODE § 172.12.](#)

The Texas Medical Practice Act provides as follows:

“(a) A person who is physically located in another jurisdiction but who, through the use of any medium, including an electronic medium, performs an act that is part of a patient care service initiated in this state, including the taking of an x-ray examination or the preparation of pathological material for examination, and that would affect the diagnosis or treatment of the patient, is considered to be engaged in the practice of medicine in this state and is subject to appropriate regulation by the board.

(b) This section does not apply to the act of:

- (1) a medical specialist located in another jurisdiction who provides only episodic consultation services on request to a physician licensed in this state who practices in the same medical specialty;



## TEXAS

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)? CONTINUED

- (2) a physician located in another jurisdiction who is providing consultation services to a medical school as defined by Section 61.501, Education Code;
- (3) a physician located in another jurisdiction who is providing consultation services to an institution subject to:
  - (A) Subchapter C, Chapter 73, Education Code; or
  - (B) Subchapter K, Chapter 74, Education Code; or
- (4) a physician located in another jurisdiction of a state having borders contiguous with the borders of this state who is the treating physician of a patient and orders home health or hospice services for a resident of this state to be delivered by a home and community support services agency licensed in this state.”

[TEX. OCC. CODE ANN. § 151.056.](#)

In addition, the Texas Medical Practice Act has a general consultation exception, which states that the Act does not apply to “a legally qualified physician of another state who is in [Texas] for consultation with a physician licensed in [Texas] but who does not: (A) maintain an office in [Texas]; or (B) appoint a place in [Texas] for seeing, examining, or treating a patient.”

[TEX. OCC. CODE ANN. § 151.052.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

There are specific Texas Medical Board regulations that apply to the practice of telemedicine. However, these regulations expressly apply to Texas-licensed physicians only (i.e., these provisions do not apply to holders of a Texas out-of-state telemedicine license).

One of the relevant regulations provides as follows:

- “Distant site providers [(meaning a physician, PA or APRN who is supervised by and has delegated authority from a licensed Texas physician, who uses telemedicine to provide health care services to a patient in Texas. Distant site providers must be licensed in Texas.)] who utilize telemedicine medical services must ensure that a proper physician-patient relationship is established which at a minimum includes:
  - (1) establishing that the person requesting the treatment is in fact whom he/she claims to be;
  - (2) establishing a diagnosis through the use of acceptable medical practices, including patient history, mental status examination, physical examination (unless not warranted by the patient’s mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contra-indications, or both, to treatment recommended or provided;
  - (3) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and
  - (4) ensuring the availability of the distant site provider or coverage of the patient for follow-up care.”
- “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 clinical settings.”
- “An online or telephonic evaluation solely by questionnaire does not constitute an acceptable standard of care.”



## TEXAS

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth? CONTINUED

Additional standards for Texas-licensed physicians providing telemedicine services include (among others):

- “All physicians that use telemedicine medical services in their practices shall adopt protocols to prevent fraud and abuse through the use of telemedicine medical services.”
- Specific notice must be provided to telemedicine patients, including notice related to privacy practices, limitations of telemedicine, necessity for an in-person evaluation, and the making of complaints to the Board.
- “(a) Telemedicine medical services provided at an established medical site may be used for all patient visits, including initial evaluations to establish a proper physician-patient relationship between a distant site provider and a patient [(An “established medical site” is a location where a patient will present to seek medical care where there is a patient site presenter and sufficient technology and medical equipment to allow for an adequate physical evaluation, as appropriate for the patient’s presenting complaint. It requires a defined physician-patient relationship. A patient’s private home is not considered an established medical site.)].
  - (b) For new conditions, a patient site presenter must be reasonably available onsite at the established medical site to assist with the provision of care. It is at the discretion of the distant site physician if a patient site presenter is necessary for follow-up evaluation or treatment of a previously diagnosed condition.
    - (1) A distant site provider may delegate tasks and activities to a patient site presenter during a patient encounter.
    - (2) A distant site provider delegating tasks to a patient site presenter shall ensure that the patient site presenter to whom delegation is made is properly supervised.
  - (c) If the only services provided are related to mental health, a patient site presenter is not required except in cases where the patient may be a danger to themselves or others.”
- “(a) A distant site provider who provides telemedicine medical services at a site other than an established medical site for a patient’s previously diagnosed condition must either:
  - (1) see the patient one time in a face-to-face visit before providing telemedicine medical care; or
  - (2) see the patient without an initial face-to-face visit, provided the patient has received an in-person evaluation by another physician who has referred the patient for additional care and the referral is documented in the medical record [(a face-to-face visit means an evaluation performed on a patient where the provider and patient are both at the same physical location or where the patient is at an established medical site)].
  - (b) Patient site presenters are not required for preexisting conditions previously diagnosed by a physician through a face-to-face visit.
  - (c) All patients must be seen by a physician for an in-person evaluation at least once a year.
  - (d) Telemedicine medical services may not be used to treat chronic pain with scheduled drugs at sites other than medical practice sites.
  - (e) A distant site provider may treat an established patient’s new symptoms which are unrelated to a patient’s preexisting condition provided that the patient is advised to see a physician in a face-to-face visit within 72 hours. A distant site provider may not provide continuing telemedicine medical services for these new symptoms to a patient who is not seen within 72 hours. If a patient’s symptoms are resolved within 72 hours, such that continuing treatment for the acute symptoms is not necessary, then a follow-up face-to-face visit is not required.”



## TEXAS

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth? CONTINUED

- “(a) Medical records must be maintained for all telemedicine medical services. 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.  
 (b) Distant site providers must obtain an adequate and complete medical history for the patient prior to providing treatment and must document this in the medical record.  
 (c) Medical records must include copies of all relevant patient-related electronic communications, including relevant patient-physician e-mail, prescriptions, laboratory and test results, evaluations and consultations, records of past care and instructions. If possible, telemedicine encounters that are recorded electronically should also be included in the medical record.”

[22 TEX. ADMIN. CODE § 174.1 et seq.](#) (see full text of regulation for further detail).

Additionally, “[a] treating physician or health professional who provides or facilitates the use of telemedicine medical services or telehealth services shall ensure that the informed consent of the patient, or another appropriate individual authorized to make health care treatment decisions for the patient, is obtained before telemedicine medical services or telehealth services are provided.”

[TEX. OCC. CODE § 111.004.](#)

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

Telemedicine medical services may not be used to treat chronic pain with scheduled drugs at sites other than medical practice sites.

[22 TEX. ADMIN. CODE § 174.7\(d\).](#)

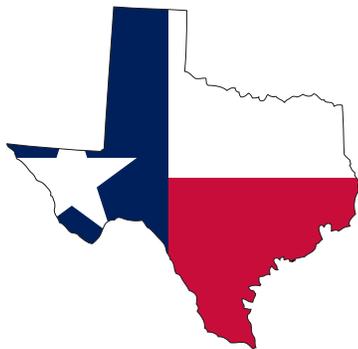
Further, Texas Board of Pharmacy regulations provide that “[a] pharmacist may not dispense a prescription drug if the pharmacist knows or should know that the prescription was issued on the basis of an Internet-based or telephonic consultation without a valid practitioner-patient relationship.

(a-1) To be a valid prescription, a prescription for a controlled substance must be issued for a legitimate medical purpose by a practitioner acting in the usual course of the practitioner’s professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is on the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.”

[TEX. OCC. CODE § 562.056.](#)

Additionally, a pending court case currently has prevented the Texas Medical Board from enforcing a rule that prohibits physicians from prescribing a dangerous drug or controlled substance without first establishing a defined physician-patient relationship, which must include a physician examination performed by either a face-to-face visit or an in-person evaluation.

*See Teladoc Inc. v. Texas Medical Board*, 112 F. Supp. 3d 529 (W.D. Tex. 2015) (granting temporary injunction, allowing telemedicine services to continue). *See also Teladoc Inc. v. Texas Medical Board*, No. 1-15-CV-343-RP, 2015 U.S. Dist. LEXIS 166754 (W.D. Tex. Dec. 14, 2015) (denying Texas Medical Board’s motion to dismiss).



## TEXAS

### Does a psychiatrist have prescribing authority?

If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth? CONTINUED

Currently, the regulation states that a physician is prohibited from prescribing “any dangerous drug or controlled substance without first establishing a proper professional relationship with the patient.” A proper relationship, at a minimum requires:

- establishing that the person requesting the medication is in fact who the person claims to be;
- establishing a diagnosis through the use of acceptable medical practices such as patient history, mental status examination, physical examination, and appropriate diagnostic and laboratory testing. An online or telephonic evaluation by questionnaire is inadequate;
- discussing with the patient the diagnosis and the evidence for it and the risks and benefits of various treatment options; and
- ensuring the availability of the licensee or coverage of the patient for appropriate follow-up care.

[22 TEX. ADMIN. CODE § 190.8](#)

### 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 requires the use of advanced telecommunications technology that allows the distant site provider to see and hear the patient in real time.

[22 TEX. ADMIN. CODE § 174.2\(10\)](#)

“An online questionnaire or questions and answers exchanged through email, electronic text, or chat or telephonic evaluation of or consultation with a patient are inadequate to establish a defined physician-patient relationship” to utilize telemedicine medical services.

[22 TEX. ADMIN. CODE § 174.8](#)

## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[Texas State Board of Examiners of Psychologists](#)

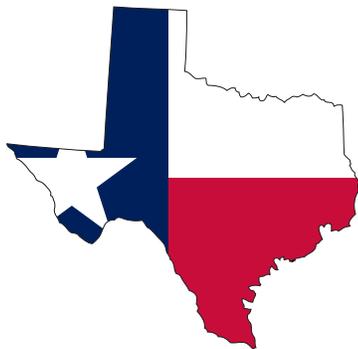
### What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?

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)?

Yes, a license issued by the Texas State Board of Examiners of Psychologists is required, with limited exceptions.

Texas State Board of Examiners of Psychologists guidance states that “[the] Psychologists’ Licensing Act and all other laws affecting the delivery of psychological services apply to all psychological services delivered anywhere within the state of Texas, regardless of whether or not they are provided via electronic media. . . . An individual who is physically



## TEXAS

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)? CONTINUED

located in another state shall be considered to be practicing psychology in Texas and, therefore, subject to the Act, if a recipient of psychological services provided by the individual is physically located in the state of Texas. Licensees should also be aware that services they offer to consumers in other states may similarly be regulated by the laws of the state in which the consumers are located.”

*Texas State Board of Examiners of Psychologists, Telepractice Policy Statement (Dec. 1999).*

However, a temporary practice by out-of-state psychologists is permitted under certain conditions. “A temporary license may be issued to an applicant to practice in this state for a limited time and purpose, such as serving as an expert witness in court or assisting a patient with transitioning to a mental health practitioner in Texas. To be eligible for temporary licensure, an applicant must [among other requirements]:

- (1) submit a completed application for temporary licensure, setting forth a brief description of the type of psychological services to be provided;
- ...
- (3) submit proof that the applicant is currently licensed, certified, or registered as a psychologist or psychological associate by another jurisdiction having requirements substantially equal to those prescribed by the Psychologists’ Licensing Act;
- ...
- (5) be supervised (sponsorship) by a psychologist licensed in this state; and
- (6) provide documentation that the applicant has passed the Examination for Professional Practice of Psychology at the Texas cut-off for the type of temporary license sought.”

“Applicants meeting the requirements for temporary licensure shall be granted a temporary license authorizing the delivery of psychological services for no more than thirty days. Upon utilization of the full thirty days, or the expiration of one year from the date of licensure, whichever occurs first, the temporary license shall expire.”

[22 TEX. ADMIN. CODE § 463.27](#); *see also* [TEX. OCC. CODE § 501.263](#).

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

However, Texas State Board of Examiners of Psychologists guidance notes the following with respect to telehealth practice generally:

“The delivery of psychological services by telephone, teleconferencing, and the Internet is a rapidly evolving area. Board rules do not specifically address telepractice, teletherapy, teleconferencing, or electronically providing services. No rules currently prohibit such services. However, it is important for psychologists to be aware of a number of concerns about telecommunication-based service delivery including the following:

1. The increased potential that a therapist will have limited knowledge of a distant community’s resources in times of crisis.
2. Problems associated with obtaining informed consent.
3. The lack of standards for training providers in the use of technology as well as the special therapeutic considerations in the use of the medium.
4. The lack of vocal, visual, and other sensory cues.



## TEXAS

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth? CONTINUED

5. The potential that equipment failures may lead to undue patient anxiety particularly in crisis situations.
6. The potential inability of patients in crisis or those unfamiliar with technology to adequately access and use the technology.
7. The lack of full disclosure of provider credentials.
8. *The lack of definition of professional relationships.*
9. The lack of confidentiality and privacy” (emphasis added).”

Additionally, the Board advises that “[it] currently considers the use of non-traditional media to deliver psychological services, including telephone, teleconferencing, e-mail, and the Internet, as ‘emerging areas’ as set forth in Board rule 465.9(e), Competency. That rule states: ‘in those emerging areas in which generally recognized standards for preparatory training do not exist, psychologists nevertheless take reasonable steps to ensure the competence of their work and to protect patients, clients, students, research participants, and other affected individuals from the potential for harm.’ Board rule 465.9(d) requires that licensees who provide services in new areas or involving new techniques do so only after undertaking appropriate study, training, supervision, and/or consultation from persons who are competent in those areas or techniques.”

[Texas State Board of Examiners of Psychologists, \*Telepractice Policy Statement\* \(Dec. 1999\).](#)

### Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

No.

### 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, the Texas State Board of Examiners of Psychologists currently considers the use of non-traditional media to deliver psychological services, including telephone, teleconferencing, e-mail, and the Internet, as “emerging areas” where psychologists are to “take reasonable steps to ensure the competence of their work and to protect patients, clients, students, research participants, and other affected individuals from the potential for harm.”

[22 TEX. ADMIN. CODE § 465.9](#)

## SOCIAL WORKERS

### What is the regulatory body in the state that governs the practice of social work?

[Texas State Board of Social Worker Examiners](#)

### What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

None identified.



## TEXAS

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Yes, a license issued by the Texas State Board of Social Worker Examiners is required.

The Texas State Board of Social Worker Examiners regulations state, in part, the following:

- “Electronic practice may be used judiciously as part of the social work process and the supervision process. Social workers engaging in electronic practice must be licensed in Texas and adhere to provisions of this chapter.”
  - » “Electronic practice” means “[i]nteractive social work practice that is aided by or achieved through technological methods, such as the web, the Internet, social media, electronic chat groups, interactive TV, list serves, cell phones, telephones, faxes, and other emerging technology.”
- “A licensee who offers social work services on the Internet must include a statement that the licensee is licensed by the State of Texas and provide a copy of the Code of Conduct with the information on how to contact this board by mail or telephone.”

[22 TEX. ADMIN. CODE § 781.102](#); [22 TEX. ADMIN. CODE § 781.204](#); [22 TEX. ADMIN. CODE § 781.414](#).

However, Texas regulations provide for provisional licensure for social workers when certain requirements are met (see [22 TEX. ADMIN. CODE § 781.410](#) for additional detail).

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?

No.

### 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.

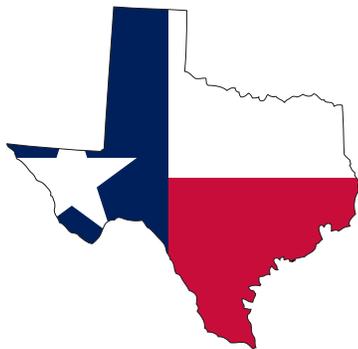
## COUNSELORS

### What is the regulatory body in the state that governs the practice of counseling?

[Texas State Board of Examiners of Professional Counselors](#)

### What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

None identified.



## TEXAS

### 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, Texas regulations provide for provisional licensure for professional counselors when certain requirements are met (see [22 TEX. ADMIN. CODE § 681.112](#) for additional detail).

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

However, before providing services, a licensee must inform an individual, in writing, of several things, including whether “[t]echnological means of communication may be used to facilitate the therapeutic counseling process.”

[22 TEX. ADMIN. CODE § 681.41.](#)

### Does a counselor have prescribing authority? If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?

No.

### 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.

## MARRIAGE/FAMILY THERAPISTS

### What is the regulatory body in the state that governs the practice of marriage/family therapy?

[Texas State Board of Examiners of Marriage and Family Therapists](#)

### What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

None identified.



## TEXAS

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Yes, a license issued by the Texas State Board of Examiners of Marriage and Family Therapists is required.

Regulations of the Texas State Board of Examiners of Marriage and Family Therapists provide that “[a] licensee who engages in interactive therapy via the telephone or internet must provide the client with his/her license number and information on how to contact the board by telephone, electronic communication, or mail, and must adhere to all other provisions of this chapter.”

[22 TEX. ADMIN. CODE § 801.44.](#)

Texas regulations provide for provisional licensure for marriage and family therapists when certain requirements are met (see [22 TEX. ADMIN. CODE § 801.203](#) for additional detail).

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

### 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.

## ADVANCED PRACTICE REGISTERED NURSES (APRNs)

### What is the regulatory body in the state that governs the practice of advanced practice nursing?

[Texas Board of Nursing](#)

### What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

None identified.



## TEXAS

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Yes, a license issued by the Texas Board of Nursing is required, with limited exceptions.

Texas APRNs are registered nurses who hold current authorization to practice as APRNs issued by the Texas Board of Nursing in any of the categories delineated by the relevant regulation.

[22 TEX. ADMIN. CODE § 221.2.](#)

Texas Board of Nursing FAQs provide the following:

- “Telenursing involves nursing practice via electronic means such as telephone, satellite, or computer. Examples of telenursing practice may include teaching, consulting, triaging, advising, or providing direct services, to name but a few. All of these actions constitute the practice of nursing, even when there is no face-to-face or physical contact with a person or patient. If a job description requires a person to hold a valid nursing license, then the job duties therein involve the practice of nursing. This means a nurse must comply with the Texas Nursing Practice Act and Board Rules in the exercise of his/her practice of nursing. Rule 217.11, Standards of Nursing Practice, is the primary rule applied to nursing practice in any setting.”
- “If a nurse from another state provides nursing to a resident of Texas, except as excluded in the Nursing Practice Act, Section 301.004, Application of Chapter, the nurse must hold a valid Texas nursing license or a valid nursing license in another Compact state in order to practice nursing in the State of Texas and/or with Texas residents. The most current list of states belonging to the Nurse Licensure Compact is located on the web page for the National Council of State Boards of Nursing [www.ncsbn.org/nlc.htm](http://www.ncsbn.org/nlc.htm). Chapter 304 of the Texas Nursing Practice Act and Rule 220 contain the regulations applicable to the Nurse Licensure Compact in Texas.”
- “Any title that would lead a member of the public to believe that a person is licensed as a nurse is prohibited from use unless the person indeed holds a valid nursing license either in Texas or in one of the compact states. This is specified in the Nursing Practice Act, Section 301.4515 and Rule 217.10. This includes titles that apply to advanced practice registered nurses as defined in Rule 221.2 *Authorization and Restriction to Use of Advanced Practice Titles*.”

[Texas Board of Nursing, FAQ: BON Rules and Regulations Relating to Telenursing/Telehealth.](#)

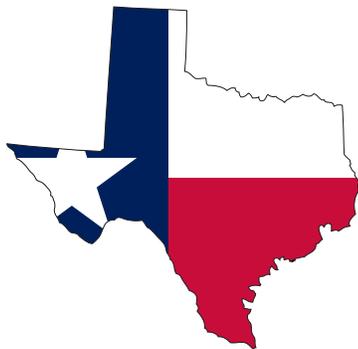
Although the Nurse Licensure Compact does not apply to APRNs, Texas has adopted legislation related to an APRN compact. However, according to Texas Board of Nursing FAQs, Texas has not yet implemented the APRN compact. With respect to how the Nurse Licensure Compact affects an individual's ability to work as an APRN in Texas, the Texas Board of Nursing FAQs state, “If you have a current, valid Compact RN license, you are not required to obtain a Texas RN license before applying for APRN licensure in Texas.”

[Texas Board of Nursing, FAQ: APRN.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The criteria applicable to Psychiatrists also is applicable to APRNs:

- “Distant site providers [(meaning a physician, PA or APRN who is supervised by and has delegated authority from a licensed Texas physician, who uses telemedicine to provide health care services to a patient in Texas. Distant site providers must be licensed in Texas.)] who utilize telemedicine medical services must ensure that a proper physician-patient relationship is established which at a minimum includes:



## TEXAS

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth? CONTINUED

- (1) establishing that the person requesting the treatment is in fact whom he/she claims to be;
  - (2) establishing a diagnosis through the use of acceptable medical practices, including patient history, mental status examination, physical examination (unless not warranted by the patient's mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contra-indications, or both, to treatment recommended or provided;
  - (3) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and
  - (4) ensuring the availability of the distant site provider or coverage of the patient for follow-up care."
- "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 clinical settings."
  - "An online or telephonic evaluation solely by questionnaire does not constitute an acceptable standard of care."

Additional standards for Texas-licensed physicians providing telemedicine services include (among others):

- "All physicians that use telemedicine medical services in their practices shall adopt protocols to prevent fraud and abuse through the use of telemedicine medical services."
- Specific notice must be provided to telemedicine patients, including notice related to privacy practices, limitations of telemedicine, necessity for an in-person evaluation, and the making of complaints to the Board.
- "(a) Telemedicine medical services provided at an established medical site may be used for all patient visits, including initial evaluations to establish a proper physician-patient relationship between a distant site provider and a patient [(An "established medical site" is a location where a patient will present to seek medical care where there is a patient site presenter and sufficient technology and medical equipment to allow for an adequate physical evaluation, as appropriate for the patient's presenting complaint. It requires a defined physician-patient relationship. A patient's private home is not considered an established medical site.)].  
(b) For new conditions, a patient site presenter must be reasonably available onsite at the established medical site to assist with the provision of care. It is at the discretion of the distant site physician if a patient site presenter is necessary for follow-up evaluation or treatment of a previously diagnosed condition.  
(1) A distant site provider may delegate tasks and activities to a patient site presenter during a patient encounter.  
(2) A distant site provider delegating tasks to a patient site presenter shall ensure that the patient site presenter to whom delegation is made is properly supervised.  
(c) If the only services provided are related to mental health, a patient site presenter is not required except in cases where the patient may be a danger to themselves or others."
- "(a) A distant site provider who provides telemedicine medical services at a site other than an established medical site for a patient's previously diagnosed condition must either:
  - (1) see the patient one time in a face-to-face visit before providing telemedicine medical care; or
  - (2) see the patient without an initial face-face to visit, provided the patient has received an in-person evaluation by another physician who has referred the patient for additional care and the referral is documented in the medical record [(a face-to-face visit means an evaluation performed on a patient where the provider and patient are both at the same physical location or where the patient is at an established medical site)].



## TEXAS

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth? CONTINUED

(b) Patient site presenters are not required for preexisting conditions previously diagnosed by a physician through a face-to-face visit.

(c) All patients must be seen by a physician for an in-person evaluation at least once a year.

(d) Telemedicine medical services may not be used to treat chronic pain with scheduled drugs at sites other than medical practice sites.

(e) A distant site provider may treat an established patient's new symptoms which are unrelated to a patient's preexisting condition provided that the patient is advised to see a physician in a face-to-face visit within 72 hours. A distant site provider may not provide continuing telemedicine medical services for these new symptoms to a patient who is not seen within 72 hours. If a patient's symptoms are resolved within 72 hours, such that continuing treatment for the acute symptoms is not necessary, then a follow-up face-to-face visit is not required."

- "(a) Medical records must be maintained for all telemedicine medical services. 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.

(b) Distant site providers must obtain an adequate and complete medical history for the patient prior to providing treatment and must document this in the medical record.

(c) Medical records must include copies of all relevant patient-related electronic communications, including relevant patient-physician e-mail, prescriptions, laboratory and test results, evaluations and consultations, records of past care and instructions. If possible, telemedicine encounters that are recorded electronically should also be included in the medical record."

[22 TEX. ADMIN. CODE § 174.1 et seq.](#) (see full text of regulation for further detail).

Additionally, "[a] treating physician or health professional who provides or facilitates the use of telemedicine medical services or telehealth services shall ensure that the informed consent of the patient, or another appropriate individual authorized to make health care treatment decisions for the patient, is obtained before telemedicine medical services or telehealth services are provided."

[TEX. OCC. CODE § 111.004.](#)

### Does an APRN have prescribing authority?

#### If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

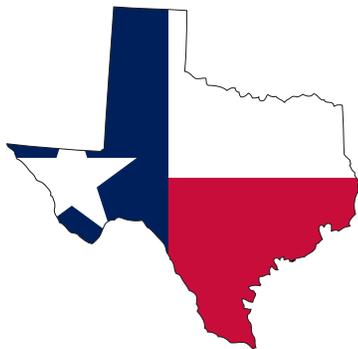
Yes, provided they obtain prescriptive authority from the Board and comply with all applicable requirements (see [22 TEX. ADMIN. CODE § 222.1 et seq.](#)).

APRNs prescribing via telehealth must meet the same conditions that are applicable to Psychiatrists. "Telemedicine medical services may not be used to treat chronic pain with scheduled drugs at sites other than medical practice sites."

[22 TEX. ADMIN. CODE § 174.7\(d\).](#)

Texas Board of Pharmacy regulations provide that "[a] pharmacist may not dispense a prescription drug if the pharmacist knows or should know that the prescription was issued on the basis of an Internet-based or telephonic consultation without a valid practitioner-patient relationship.

(a-1) To be a valid prescription, a prescription for a controlled substance must be issued for a legitimate medical purpose by a practitioner acting in the usual course of the practitioner's professional practice. The responsibility for



## TEXAS

### Does an APRN have prescribing authority?

#### If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth? CONTINUED

the proper prescribing and dispensing of controlled substances is on the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.”

[TEX. OCC. CODE § 562.056.](#)

Additionally, a pending court case currently has prevented the Texas Medical Board from enforcing a rule that prohibits physicians from prescribing a dangerous drug or controlled substance without first establishing a defined physician-patient relationship, which must include a physician examination that must be performed by either a face-to-face visit or in-person evaluation.

*See Teladoc Inc. v. Texas Medical Board*, 112 F. Supp. 3d 529 (W.D. Tex. 2015) (granting temporary injunction, allowing telemedicine services to continue). *See also Teladoc Inc. v. Texas Medical Board*, No. 1-15-CV-343-RP, 2015 U.S. Dist. LEXIS 166754 (W.D. Tex. Dec. 14, 2015) (denying Texas Medical Board’s motion to dismiss).

Currently, the regulation states that a physician is prohibited from prescribing “any dangerous drug or controlled substance without first establishing a proper professional relationship with the patient.” A proper relationship, at a minimum requires:

- establishing that the person requesting the medication is in fact who the person claims to be;
- establishing a diagnosis through the use of acceptable medical practices such as patient history, mental status examination, physical examination, and appropriate diagnostic and laboratory testing. An online or telephonic evaluation by questionnaire is inadequate;
- discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and
- ensuring the availability of the licensee or coverage of the patient for appropriate follow-up care.

[22 TEX. ADMIN. CODE § 190.8.](#)

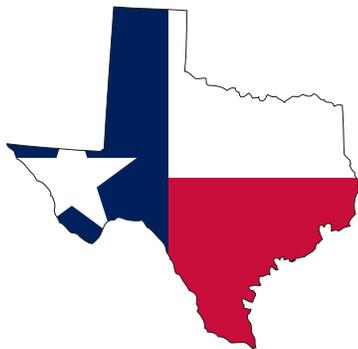
### What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

None identified.

## PRIVACY/CONFIDENTIALITY

### What are the specific privacy/confidentiality requirements involving mental health records?

Texas provisions governing mental health records require (among other requirements and restrictions): “(a) Communications between a patient and a professional [(See text of regulation for the definition of “professional”), and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential. (b) Confidential communications or records may not be disclosed except as provided by Section 611.004 [(describes to whom a professional may disclose information in other than a judicial or administrative proceeding)] or 611.0045 [(describes the scope of patients’ rights to their mental health records)]. (c) This section applies regardless of when the patient received services from a professional.”



## TEXAS

### What are the specific privacy/confidentiality requirements involving mental health records? CONTINUED

The same Texas provisions governing mental health records also:

- indicate to whom a professional may disclose confidential information in a judicial or administrative proceeding;
- describe when and how a patient may revoke a disclosure consent to a professional; and
- require that, “on receipt of a written request from a patient to examine or copy all or part of the patient’s recorded mental health care information, a professional, as promptly as required under the circumstances but not later than the 15th day after the date of receiving the request, shall:
  - (1) make the information available for examination during regular business hours and provide a copy to the patient, if requested; or
  - (2) inform the patient if the information does not exist or cannot be found [(see additional detail on charging for mental health records within the statute)].”

[TEX. HEALTH & SAFETY CODE § 611.001 et seq.](#)

The following provisions regarding mental health records also apply to “health care providers,” a term which includes any person who is licensed, certified, or otherwise authorized by the laws of this state to provide or render health care in the ordinary course of business or practice of a profession:

- “(a) A health care provider or health care facility may not charge a fee for a medical or mental health record requested by a patient or former patient, or by an attorney or other authorized representative of the patient or former patient, for use in supporting an application for disability benefits or other benefits or assistance the patient or former patient may be eligible to receive based on that patient’s or former patient’s disability, or an appeal relating to denial of those benefits or assistance under:
- (1) Chapter 31, Human Resources Code;
  - (2) the state Medicaid program;
  - (3) Title II, the federal Social Security Act, as amended (42 U.S.C. Section 401 *et seq.*);
  - (4) Title XVI, the federal Social Security Act, as amended (42 U.S.C. Section 1382 *et seq.*);
  - (5) Title XVIII, the federal Social Security Act, as amended (42 U.S.C. Section 1395 *et seq.*);
  - (6) 38 U.S.C. Section 1101 *et seq.*, as amended; or
  - (7) 38 U.S.C. Section 1501 *et seq.*, as amended.
- (b) A health care provider or health care facility may charge a fee for the medical or mental health record of a patient or former patient requested by a state or federal agency in relation to the patient or former patient’s application for benefits or assistance under Subsection (a) or an appeal relating to denial of those benefits or assistance.
- (c) A person, including a state or federal agency, that requests a record under this section shall include with the request a statement or document from the department or agency that administers the issuance of the assistance or benefits that confirms the application or appeal.
- (d) A health care provider or health facility is not required to provide more than one complete record for a patient or former patient requested under Subsection (a)(6) or (7) without charge. If additional material is added to the patient or former patient’s record, on request the health care provider or health facility shall supplement the record provided under Subsection (a)(6) or (7) without charge. This subsection does not affect the ability of a person to receive a medical or mental health record under Subsections (a)(1)-(5).”



## TEXAS

### What are the specific privacy/confidentiality requirements involving mental health records? CONTINUED

- “A health care provider or health care facility shall provide to the requestor a medical or mental health record requested under Section 161.202 not later than the 30th day after the date on which the provider or facility receives the request.”
- “This subchapter controls over Section 611.0045 of this code and Section 159.006, Occupations Code, and any other provision that authorizes the charging of a fee for providing medical or mental health records.”

[TEX. HEALTH & SAFETY CODE § 161.201 \*et seq.\*](#)

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

The Health Professions title of the Texas Occupations Code states that “[a] treating physician or health professional who provides or facilitates the use of telemedicine medical services or telehealth services shall ensure that the confidentiality of the patient’s medical information is maintained as required by Chapter 159 [(governs confidentiality of communications between physicians and patients and patient records)] or other applicable law.”

[TEX. OCC. CODE § 111.004.](#)

### MINORS

### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

### FOLLOW-UP CARE

### What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

The Texas Medical Board provides FAQs regarding the use of telemedicine services.

According to these FAQs, a distant site provider may provide medical care using telemedicine, contingent upon certain requirements being met, including the requirement that when providing follow-up care for an established patient’s previously diagnosed condition, “[t]he provider will be allowed to provide telemedicine care to a patient at a site other than an established medical site, contingent upon the provider having previously diagnosed the condition either through an in-person evaluation (meaning, while at the same physical location as the patient) or an evaluation conducted at an established medical site.”

The Texas Medical Board FAQs also state that when providing care for an established patient with a new condition, “[t]he provider will be allowed to provide telemedicine care for an established patient’s new condition at a site other than an established medical site, if the distant site provider advises the patient to see a physician (either at an established medical site or in-person) within 72 hours if the symptoms do not resolve, and provides no additional care for such symptoms if the patient is not seen by such a physician.”

[Texas Medical Board, FAQs: \*Telemedicine.\*](#)



## TEXAS

### 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?

The Texas Medical Board provides FAQs regarding the use of telemedicine services.

The Texas Medical Board FAQs provide that when providing care for an established patient with a new condition, “[t]he provider will be allowed to provide telemedicine care for an established patient’s new condition at a site other than an established medical site, if the distant site provider advises the patient to see a physician (either at an established medical site or in-person) within 72 hours if the symptoms do not resolve, and provides no additional care for such symptoms if the patient is not seen by such a physician.”

[Texas Medical Board, FAQs: \*Telemedicine\*.](#)

### 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.

The Texas Insurance Code provides the following:

- “(a) A health benefit plan may not exclude a telemedicine medical service or a telehealth service from coverage under the plan solely because the service is not provided through a face-to-face consultation.
- (b) A health benefit plan may require a deductible, a copayment, or coinsurance for 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 a comparable medical service provided through a face-to-face consultation.”

“This chapter applies only to a health benefit plan that:

- (1) provides benefits for medical or surgical expenses incurred as a result of a health condition, accident, or sickness, including:
  - (A) an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage that is offered by:
    - (i) an insurance company;
    - (ii) a group hospital service corporation operating under Chapter 842;
    - (iii) a fraternal benefit society operating under Chapter 885;
    - (iv) a stipulated premium company operating under Chapter 884; or
    - (v) a health maintenance organization operating under Chapter 843; and
  - (B) to the extent permitted by the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), a health benefit plan that is offered by:
    - (i) a multiple employer welfare arrangement as defined by Section 3 of that Act; or
    - (ii) another analogous benefit arrangement; or
- (2) is offered by an approved nonprofit health corporation that holds a certificate of authority under Chapter 844.”

[TEX. INS. CODE § 1455.001 et seq.](#)



## TEXAS

### Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

According to the statute/regulations governing the Texas Medicaid program, the following definitions apply:

- “Telehealth service” means “a health service, other than a 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:
  - » compressed digital interactive video, audio, or data transmission;
  - » clinical data transmission using computer imaging by way of still-image capture and store and forward; and
  - » other technology that facilitates access to health care services or medical specialty expertise.”
- “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 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:
  - » compressed digital interactive video, audio, or data transmission;
  - » clinical data transmission using computer imaging by way of still-image capture and store and forward; and
  - » other technology that facilitates access to health care services or medical specialty expertise.”

[1 TEX. ADMIN. CODE § 354.1430](#) (See text of regulation for definitions of additional terms set forth below) [TEX. GOV. CODE § 531.001](#).

Pursuant to the relevant Medicaid regulations, “[t]elemedicine 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 for 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.

(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.



## TEXAS

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

(E) Before receiving a telehealth service, the patient must receive an in-person evaluation for the same diagnosis or condition, with the exception of a mental health diagnosis or condition. For a mental health diagnosis or condition, the patient may receive a telehealth service without an in-person evaluation provided the purpose of the initial telehealth appointment is to screen and refer the patient for additional services and the referral is documented in the medical record.

(F) For the continued receipt of a telehealth service, the patient must receive an in-person evaluation at least once during the previous 12 months by a person qualified to determine a need for services.

(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:

- (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.”

Conditions of reimbursement for 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:

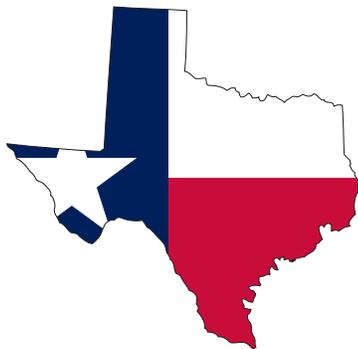
- (i) an established medical site;
- (ii) a state mental health facility; or
- (iii) a state supported living center.”

Conditions for reimbursement applicable to both telehealth services and telemedicine medical 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.



## TEXAS

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

(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.

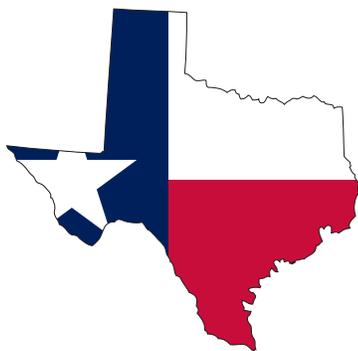
(E) Telemedicine medical services and telehealth services are reimbursed in accordance with Chapter 355 of this title (relating to Reimbursement Rates).”

[1 TEX. ADMIN. CODE § 354.1432](#) (see [1 TEX. ADMIN. CODE § 355.7001](#) for additional information on Medicaid reimbursement for telemedicine/telehealth services).

The *Texas Medicaid Provider Procedures Manual* provides the following:

- Telehealth-eligible distant site providers:
  - » Licensed professional counselors
  - » Licensed marriage and family therapist
  - » Licensed clinical social worker
  - » Psychologist
  - » Licensed psychological associate
  - » Provisionally licensed psychologist
  - » Licensed dietician
- Telehealth-eligible patient site providers:
  - » An individual who is licensed or certified in Texas to perform health care services
  - » A qualified mental health professional
- Telemedicine-eligible distant site providers:
  - » Physician
  - » Certified Nutrition Specialist
  - » Nurse Practitioner
  - » Physician Assistant
  - » Certified Nurse Midwife
- Telemedicine-eligible patient site providers:
  - » Physicians
  - » Physician assistants
  - » Nurse practitioners
  - » Clinical nurse specialists
  - » Outpatient providers
- “Only those services that involve direct face-to-face interactive video communication between the client and the distant-site provider constitute a telemedicine or telehealth service. Telephone conversations, chart reviews, electronic mail messages, and fax transmissions alone do not constitute a telemedicine or telehealth interactive video service and will not be reimbursed as telemedicine or telehealth services.”

[Texas Medicaid Provider Procedures Manual, vol. 2 \(Telecommunication Services Handbook\) \(Mar. 2016\).](#)



## TEXAS

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Texas defines the term “controlled substance” is defined as “a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Groups 1, 1-A, or 2 through 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance.”

[TEX. HEALTH & SAFETY CODE § 481.001.](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances”?

The Texas Controlled Substances Act includes numerous requirements regarding the prescription of controlled substances, a selection of which are detailed below:

- “Except as otherwise provided by this chapter, a person who is not a registrant may not manufacture, distribute, prescribe, possess, analyze, or dispense a controlled substance in this state.”
- “A practitioner defined by Section 481.002(39)(A) [(includes physicians)] may not prescribe, dispense, deliver, or administer a controlled substance or cause a controlled substance to be administered under the practitioner’s direction and supervision except for a valid medical purpose and in the course of medical practice.”
- “A prescription for a controlled substance must show:
  - (1) The quantity of the substance prescribed:
    - (A) Numerically, followed by the number written as a word, if the prescription is written;
    - (B) Numerically, if the prescription is electronic; or
    - (C) If the prescription is communicated orally or telephonically, as transcribed by the receiving pharmacist;
  - (2) The date of issue;
  - (2-a) If the prescription is issued for a Schedule II controlled substance to be filled at a later date under Subsection (d-1), the earliest date on which a pharmacy may fill the prescription;
  - (3) The name, address, and date of birth or age of the patient or, if the controlled substance is prescribed for an animal, the species of the animal and the name and address of its owner;
  - (4) The name and strength of the controlled substance prescribed;
  - (5) The directions for use of the controlled substance;
  - (6) The intended use of the substance prescribed unless the practitioner determines the furnishing of this information is not in the best interest of the patient;
  - (7) The name, address, Federal Drug Enforcement Administration number, and telephone number of the practitioner at the practitioner’s usual place of business, which must be legibly printed or stamped on a written prescription; and
  - (8) If the prescription is handwritten, the signature of the prescribing practitioner.”
- “A practitioner who prescribes a controlled substance listed in Schedule II shall, except as provided by rule adopted under Section 481.0761, record the prescription on an official prescription form or in an electronic prescription that includes the information required by this section” (see text of statute for further detail).

[TEX. HEALTH & SAFETY CODE §§ 481.061, 481.071, 481.074 & 481.075.](#)

**TEXAS****What are the requirements/laws governing the prescribing of “controlled” substances”? CONTINUED**

Texas Board of Nursing regulations state the following:

- “(a) APRNs with full licensure and a valid prescription authorization number are eligible to obtain authority to order and prescribe certain categories of controlled substances. The APRN must comply with all federal and state laws and regulations relating to the ordering and prescribing of controlled substances in Texas, including but not limited to, requirements set forth by the Texas Department of Public Safety and the United States Drug Enforcement Administration.
- (b) Orders and prescriptions for controlled substances in Schedules III through V may be authorized, provided the following criteria are met:
- (1) Prescriptions for a controlled substance in Schedules III through V, including a refill of the prescription, shall not exceed a 90 day supply. This requirement includes a prescription, either in the form of a new prescription or in the form of a refill, for the same controlled substance that a patient has been previously issued within the time period described by this subsection.
  - (2) Beyond the initial 90 days, the refill of a prescription for a controlled substance in Schedules III through V shall not be authorized prior to consultation with the delegating physician and notation of the consultation in the patient’s chart.
  - (3) A prescription of a controlled substance in Schedules III through V shall not be authorized for a child less than two years of age prior to consultation with the delegating physician and notation of the consultation in the patient’s chart.
- (c) Orders and prescriptions for controlled substances in Schedule II may be authorized only:
- (1) in a hospital facility-based practice, in accordance with policies approved by the hospital’s medical staff or a committee of the hospital’s medical staff as provided by the hospital’s bylaws to ensure patient safety and as part of care provided to a patient who:
    - (A) has been admitted to the hospital for an intended length of stay of 24 hours or greater;
    - or
    - (B) is receiving services in the emergency department of the hospital; or
  - (2) as part of the plan of care for the treatment of a person who has executed a written certification of a terminal illness, has elected to receive hospice care, and is receiving hospice treatment from a qualified hospice provider.”

[22 TEX. ADMIN. CODE § 222.8.](#)

# UTAH





## 50-State Survey of Telemental/Telebehavioral Health

**UTAH****What is the definition of “telemedicine” or “telehealth”?**

Utah defines “digital health service” as “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.](#)

**What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?**

None identified.

**PSYCHIATRISTS****What is the regulatory body in the state that governs the practice of psychiatry?**

[Utah Division of Occupational and Professional Licensing – Physician and Surgeon](#)

**What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?**

None identified.

However, 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.](#)

**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state)**

None identified.

However, a license issued by the Utah Division of Occupational and Professional Licensing is generally required to practice as a psychiatrist in Utah.

An out-of-state psychiatrist may practice without a Utah license if:

- the psychiatrist is licensed in good standing in another state, with no licensing action pending with no less than 10 years of professional experience;
- the services are rendered as a public service and for a noncommercial purpose;
- no fee or other consideration of value is charged, received, expected, or contemplated for the services rendered beyond an amount necessary to cover the proportionate cost of malpractice insurance; and
- the psychiatrist does not otherwise engage in unlawful or unprofessional conduct.

[UTAH CODE ANN. § 58-67-305.](#)



## UTAH

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

Utah statutes provide, in part, that online prescribers will:

- be held to the same standards of appropriate practice as those applicable in traditional settings, which, for purposes of this chapter, include the delivery of online pharmaceutical services;
- conduct an assessment and diagnosis based upon a comprehensive health history and an assessment tool, such as a branching questionnaire;
- ensure that a comprehensive health history, assessment, and diagnosis have been made before prescribing any medication;
- conduct the online assessment and diagnosis only through the approved Internet facilitator identified in the online prescriber's application;
- comply with all applicable state and federal laws, rules, regulations, and orders;
- inform the patient electronically of the benefits and risks of appropriate treatment;
- guide the patient regarding the optimal course of action;
- treat the patient with courtesy, respect, dignity, responsiveness, and timely attention to the patient's needs;
- comply with the requirements for confidentiality as required by this title and applicable federal law;
- continue to provide the user with reasonable assistance and sufficient opportunity to make alternative arrangements for care;
- be available for ongoing consultation with the patient through e-mail or other forms of communication;
- not delegate to a third party the professional responsibility to:
  - » review and evaluate the results of the branching questionnaire;
  - » consult with the patient electronically or through other means about the patient's medical condition; and
  - » diagnose and prescribe medications to the patient;
- conduct the online assessment and diagnosis and the electronic communication between the online prescriber and the patient only through the approved Internet facilitator;
- maintain the online medical records of the patient, and, if maintenance of the records is delegated by the online prescriber, delegate that authority only to the approved Internet facilitator;
- inform a patient of the patient's freedom of choice to select the pharmacy to dispense his or her prescription by providing the patient with the phone number of the online contract pharmacy so that he or she may contact the online contract pharmacy and request a transfer of the prescription to another pharmacy; and
- authorize the Internet facilitator to provide the online contract pharmacy with the patient's:
  - » full name;
  - » current address and telephone number;
  - » date of birth or age and gender;
  - » height, weight, and vital signs (if known);
  - » medication allergies or drug reactions; and
  - » current medications, including over-the-counter products, and any additional comments relevant to the patient's drug use.

[UTAH CODE ANN § 58-83-305\(1\)-\(2\).](#)



## UTAH

### 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, Utah defines “remotely” as a means of communicating via Internet, telephone, or other electronic means that facilitates real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

[UTAH CODE ANN. § 58-60-102\(8\).](#)

## PSYCHOLOGISTS

### What is the regulatory body in the state that governs the practice of psychology?

[Utah Psychologist Licensing Board](#)

### What are the restrictions on the scope of practice for psychologists 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)?

None identified.

However, a license issued by the Utah Psychologist Licensing Board is generally required to practice as a psychologist in Utah.

Additionally, individuals licensed to practice mental health therapy in a U.S. state or territory outside Utah may provide short-term mental health therapy remotely to a client in Utah only if the following requirements are met:

- The individual is present in the state or territory where the individual is licensed to practice mental health therapy.
- The client relocates to Utah.
- The client is a client of the individual immediately before the client relocates to Utah.
- The individual provides the short-term transitional mental health therapy to the client only during the 45-day period beginning on the day on which the client relocates to Utah.
- Within 10 days after the day on which the client relocates to Utah, the individual provides written notice to the division of the individual’s intent to provide short-term transitional mental health therapy remotely to the client.
- The individual does not engage in unlawful conduct or unprofessional conduct.

[UTAH CODE ANN. § 58-61-307\(k\).](#)



## UTAH

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

No.

### 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, working “remotely” as a psychologist means communicating via Internet, telephone, or other electronic means that facilitates real-time audio or visual interaction between individuals when they are not physically present in the same room at the same time.

[UTAH CODE ANN. § 58-61-102\(10\).](#)

## SOCIAL WORKERS

### What is the regulatory body in the state that governs the practice of social work?

[Utah Division of Occupational and Professional Licensing – Social Work](#)

### What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?

None identified.

However, 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.](#)

### 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 Utah Division of Occupational and Professional Licensing is generally required to practice as a social worker in Utah.



## UTAH

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.  
See Psychiatrists section above.

### COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[Utah Division of Occupational and Professional Licensing – Clinical Mental Health Counselor](#)

**What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?**

None identified.  
See Social Workers section above.

**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 Utah Division of Occupational and Professional Licensing is generally required to practice as a clinical mental health counselor in Utah.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.  
See Psychiatrists section above.



## UTAH

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Utah Division of Occupational and Professional Licensing – Marriage and Family Therapy](#)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

None identified.

*See Social Workers section above.*

**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 Utah Division of Occupational and Professional Licensing is generally required to practice as a marriage and family therapist in Utah.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority?**

**If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

*See Psychiatrists section above.*



## UTAH

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Utah Division of Occupational and Professional Licensing – Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority?  
If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

An APRN must provide each existing patient with the option of participating in electronic prescribing for prescriptions issued for the patient, if the practitioner offers the patient a choice regarding to which pharmacy the practitioner will issue the electronic prescription. “The practitioner may not issue a prescription through electronic prescribing for a drug, device, or federal controlled substance that the practitioner is prohibited by federal law or federal rule from issuing through electronic prescribing.”

[UTAH CODE ANN § 58-82-201.](#)

An APRN practicing in Utah under a multistate license privilege may be granted prescription authority only if that individual can document complete of graduate level course work in the following areas:

- Advanced health assessment
- Pharmacotherapeutics
- Diagnosis and treatment

An APRN must be placed on a registry with the Utah Division of Occupational and Professional Licensing, which can be done by:

- submitting a form prescribed by the division;
- paying a fee; and
- if prescribing a controlled substance, obtaining a controlled substance license, and, if prescribing a Schedule II or III controlled substance, having a consultation and referral plan with a physician in Utah.

[UTAH CODE ANN. § 58-31d-103.](#)



## 50-State Survey of Telemental/Telebehavioral Health

**UTAH**

**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.

See Psychiatrists section above.

**PRIVACY/CONFIDENTIALITY**

**What are the specific privacy/confidentiality requirements involving mental health records?**

“A mental health professional may not disclose any confidential communication with a client or patient without the express consent of:

- The client or patient
- The parent or legal guardian of a minor client or patient or
- The authorized agent of a client or patient.”

[UTAH CODE ANN. § 58-60-114.](#)

**Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?**

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.](#)

**MINORS**

**What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?**

None identified.



## UTAH

### FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

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?

None identified.

### 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.

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

Telemedicine providers are eligible for reimbursement under Utah's Medical Assistance Program.

[UTAH CODE ANN. § 26-18-13.](#)

Medicaid implemented a telehealth home care project that was effective Jan. 1, 2000. The project is an additional, complimentary method to provide beneficiary medical monitoring and education and to increase medical care compliance of home health care beneficiaries in rural areas. The project allows delivery of a percentage of home health care visits through telehealth to beneficiaries who meet selection criteria. Criteria include that the beneficiary lives in identified rural areas and that there are two or more home care nursing visits per week.

The home health agency must not discriminate against beneficiaries who do not wish to participate in telehealth home care.

[Utah Division of Medicaid and Health Financing, Utah Medicaid Provider Manual \(Home Health Agencies\)](#)



## UTAH

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

Utah statutes define “controlled substance” to mean “a drug or substance:

- included in Schedules I, II, III, IV, or V of Section 58-37-4;
- included in Schedules I, II, III, IV, or V of the federal Controlled Substances Act, Title II, P.L. 91-513;
- that is a controlled substance analog; or
- listed in [Utah Code Ann.] Section 58-37-4.2.”

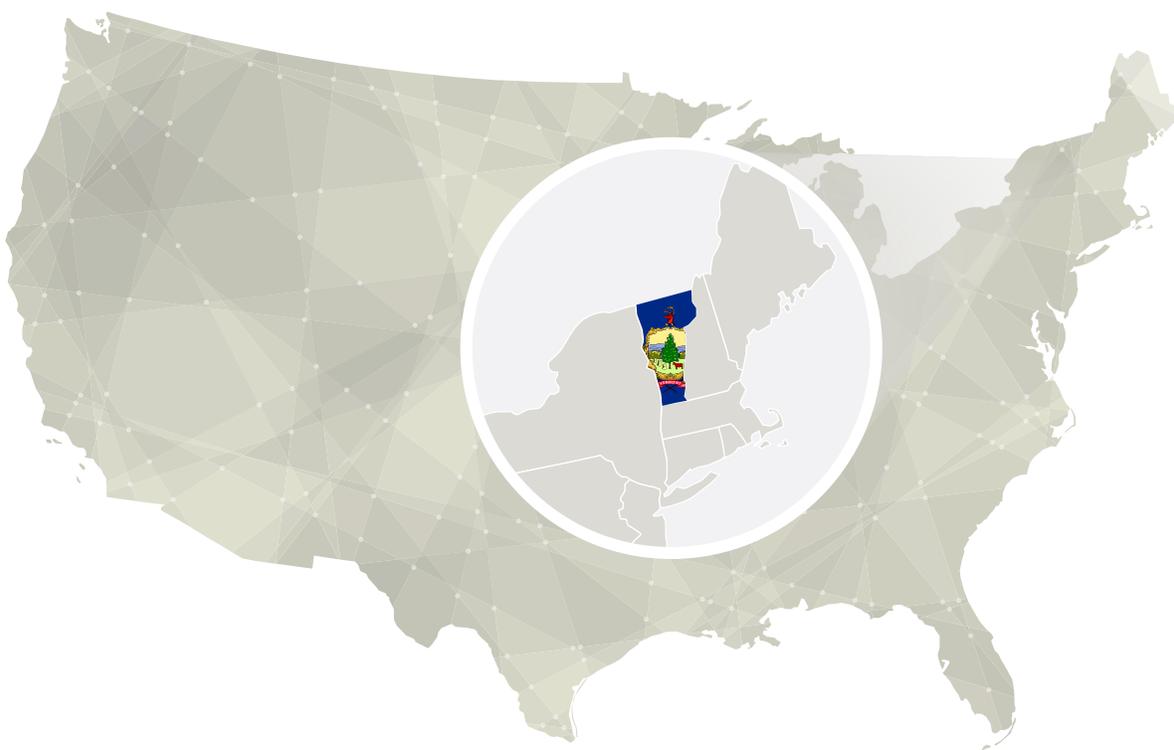
[UTAH CODE ANN. § 58-37-2\(1\)\(f\).](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances”?

The Utah Division of Occupational and Professional Licensing may issue a controlled substance license to prescribe controlled substances in Schedules I, II, III, IV, or V to qualified persons. Licenses will be issued to, among others, physicians and surgeons, as well as advanced practice registered nurses.

[UTAH ADMIN. CODE r. 156-37-301.](#)

# VERMONT





## VERMONT

### What is the definition of “telemedicine” or “telehealth”?

“Telemedicine” does not appear to be defined in Vermont’s medical practice act. The definition below comes from the statutory chapter on “Health Insurance”:

“Telemedicine” means the delivery of health care services such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that meets Health Insurance Portability and Accountability Act (HIPAA) requirements. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

[VT. STAT. ANN. tit. 8, § 4100k.](#)

The medical practice act, however, does state that the “practice of medicine” means (among other things) “rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient or the actual rendering of treatment to a patient within the state by a physician located outside the state as a result of the transmission of individual patient data by electronic or other means from within the state to the physician or his or her agent.”

[VT. STAT. ANN. tit. 26, § 1311.](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[Vermont Board of Medical Practice](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes. Vermont licensure is required, with limited exceptions.

In 1999, the Vermont Board of Medical Practice (along with several other boards in the region) agreed to support the following Northeast Region State Medical Boards Statement of Principle:

“Except for consultation as defined by our several states, provision of all medical services shall require a full license in the state in which the patient encounter will occur.”

[Northeast Region State Medical Boards, Statement of Principle: Medical Practice Across State Lines \(1999\).](#)

In line with this, the Vermont medical practice act states that its licensure requirement does not apply to “a nonresident physician coming into [Vermont] to consult or using telecommunications to consult with a duly licensed practitioner herein.”

[VT. STAT. ANN. tit. 26, § 1313.](#)



## VERMONT

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The Board considers the following to be unprofessional conduct:

- (A) providing, prescribing, dispensing, or furnishing medical services or prescription medication or prescription-only devices to a person in response to any communication transmitted or received by computer or other electronic means, when the licensee fails to take the following actions to establish and maintain a proper physician-patient relationship:
  - (i) a reasonable effort to verify that the person requesting medication is in fact the patient, and is in fact who the person claims to be;
  - (ii) establishment of documented diagnosis through the use of accepted medical practices; and
  - (iii) maintenance of a current medical record;
- (B) for the purposes of this subdivision (33), an electronic, on-line, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient;
- (C) the following would not be in violation of this subdivision (33) if transmitted or received by computer or other electronic means:
  - (i) initial admission orders for newly hospitalized patients;
  - (ii) prescribing for a patient of another physician for whom the prescriber has taken the call;
  - (iii) prescribing for a patient examined by a licensed advanced practice registered nurse, physician assistant, or other advanced practitioner authorized by law and supported by the physician;
  - (iv) continuing medication on a short-term basis for a new patient, prior to the patient's first appointment; or
  - (v) emergency situations where life or health of the patient is in imminent danger.

[VT. STAT. ANN. tit. 26, § 1354.](#)

### Does a psychiatrist have prescribing authority?

#### If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

In addition to the applicable provisions described in the row above, Vermont law states, "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 drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient either in person 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. For purposes of this subchapter, "telemedicine" shall have the same meaning as in 8 V.S.A. § 4100k [(see first row of this Vermont chart)]."

[VT. STAT. ANN. tit. 18, § 9361.](#)

### 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, per the definition of "telemedicine" provided above (with respect to insurance coverage), the modalities considered acceptable would be live interactive audio and video, whereas telemedicine services delivered via audio-only telephone, e-mail, or facsimile would appear to be unacceptable.



## VERMONT

### PSYCHOLOGISTS

#### What is the regulatory body in the state that governs the practice of psychology?

[Vermont Board of Psychological Examiners](#)

#### What are the restrictions on the scope of practice for psychologists 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)?

Yes, Vermont licensure is required.

Vermont regulations provide that “[p]sychologists from other jurisdictions providing telepractice services to persons in Vermont are deemed to be practicing in Vermont. They must be licensed by the Board and must comply with the disclosure requirements of Rule 6.8.”

[04-30-270 VT. CODE R. § 6.4.](#)

In addition,

[p]rofessionals who provide service via the Internet or other electronic means should provide as much information as possible to individuals who access their services. At a minimum, the psychologist should prominently disclose:

- Name and location of the psychologist
- Type of license and jurisdiction where licensed
- What the psychologist is licensed and trained to do
- To whom the client may make a complaint and how
- The limits and limitations of Internet practice/service delivery

This is not unlike the disclosure we require of psychologists and other mental health providers in face-to-face settings, and it is just as important.

[Vermont Board of Psychological Examiners, \*A Word on Telepractice.\*](#)

Vermont regulations also recommend that “[p]rofessionals who provide service via the Internet or other electronic means should provide as much information as possible to individuals who access their services.”

[04-30-270 VT. CODE R. § 6.4.](#)

Vermont’s psychology practice law states that “[l]icensees who provide services regulated under this chapter by means of the internet or any other electronic means are deemed to provide such services in this state, and are subject to the jurisdiction of the board. The board may take disciplinary or other action against such licensees. Action taken by the board does not preclude any other jurisdiction from also taking disciplinary or other action against such licensees.”

[VT. STAT. ANN. tit. 26, § 3018.](#)



## VERMONT

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?

No.

However, a psychologist may offer a medication recommendation to the prescribing provider about a patient the psychologist has evaluated when such recommendation is an informed opinion based on the psychologist's education, training, and professional experience. The psychologist's opinion may inform the physician's medication decision.

[04-30-270 VT. CODE R. § 6.5.](#)

### 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, per the definition of "telemedicine" provided above (with respect to insurance coverage), the modalities considered acceptable would be live interactive audio and video, whereas telemedicine services delivered via audio-only telephone, e-mail, or facsimile would appear to be unacceptable.

## SOCIAL WORKERS

### What is the regulatory body in the state that governs the practice of social work?

[Vermont Secretary of State Office of Professional Regulation](#)

### 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)?

None identified.

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**VERMONT**

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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, per the definition of “telemedicine” provided above (with respect to insurance coverage), the modalities considered acceptable would be live interactive audio and video, whereas telemedicine services delivered via audio-only telephone, e-mail, or facsimile would appear to be unacceptable.

**COUNSELORS**

**What is the regulatory body in the state that governs the practice of counseling?**

[Vermont Board of Allied Mental Health](#)

**What are the restrictions on the scope of practice for counselors 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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, per the definition of “telemedicine” provided above (with respect to insurance coverage), the modalities considered acceptable would be live interactive audio and video, whereas telemedicine services delivered via audio-only telephone, e-mail, or facsimile would appear to be unacceptable.



## 50-State Survey of Telemental/Telebehavioral Health

**VERMONT****MARRIAGE/FAMILY  
THERAPISTS**

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Vermont Board of Allied Mental Health](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

None identified.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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, per the definition of “telemedicine” provided above (with respect to insurance coverage), the modalities considered acceptable would be live interactive audio and video, whereas telemedicine services delivered via audio-only telephone, e-mail, or facsimile would appear to be unacceptable.

**ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Vermont Board of Nursing](#)



## VERMONT

### What are the restrictions on the scope of practice for APRNs 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)?

Yes. Vermont licensure is required, with limited exceptions.

According to the Board's position statement on telehealth nursing:

- "Nurses located outside Vermont who provide telehealth nursing to clients in Vermont must have an active Vermont Advanced Practice Registered Nurse, Registered Nurse, or Licensed Practical Nurse license, unless they are providing follow-up care. Follow-up care is provided when the nurse has personally established a provider-patient relationship or is authorized to act as the agent of a provider who has initially established a provider-patient relationship outside of Vermont. When providing the follow-up care, the nurse must have access to the diagnosis and current medical record."
- "Telephone triage or assessment is within the scope of the APRN and RN. LPN's may collect data and ask questions that are delineated in an algorithm or guideline to assist the APRN, RN, or physician in making an assessment of a client's condition."

[Vermont Board of Nursing, Position Statement: Licensing Requirements for Nurses Performing Telehealth Nursing to Vermonters from Outside Vermont \(2012\).](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The Vermont Board of Nursing's position statement on telehealth nursing defines the "provider-patient relationship" as a relationship that includes the establishment of a documented diagnosis through the use of accepted medical practices and the maintenance of a current medical record.

[Vermont Board of Nursing, Position Statement: Licensing Requirements for Nurses Performing Telehealth Nursing to Vermonters from Outside Vermont \(2012\).](#)

Under Vermont's nurse practice act, establishing and maintaining a proper provider-patient relationship requires:

- (A) a reasonable effort to verify that the person requesting medication is in fact the patient and is in fact who the person claims to be;
- (B) establishment of documented diagnosis through the use of accepted medical practices; and
- (C) maintenance of a current medical record.

Note that this provision should be read alongside the provision detailed in the row directly below.

[VT. STAT. ANN. tit. 26, § 1615.](#)



## VERMONT

### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes, provided applicable requirements are met (See [04-30-170 VT. CODE R. § 15.2](#)).

Under the Vermont nurse practice act, it is considered unprofessional conduct for an APRN to engage in the following: “Providing, prescribing, dispensing, or furnishing medical services or prescription medication or prescription-only devices to a person in response to any communication transmitted or received by computer or other electronic means when the licensee fails to take [the actions detailed in the row directly above] to establish and maintain a proper provider-patient relationship.” Further, the act provides that “an electronic, online, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient.”

[VT. STAT. ANN. tit. 26, § 1615.](#)

### 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 Vermont Board of Nursing’s position statement defines “telehealth nursing” as “the use of telehealth/telemedicine technology to deliver nursing care and conduct nursing practice. The technologies may include telecommunications and health technologies, such as audio, video, or data that are integrated into nursing practice to deliver nursing care remotely. Any nurse who has spoken with a patient over the phone has practiced telehealth nursing (from American Telemedicine Association’s Telehealth Nursing Fact Sheet, accessed online April 6, 2012).”

The position statement also provides, “Nurses may access patient data remotely and communicate or interact with patients and caregivers via audio, video, and or written means (such as e-mail, fax, texting, or online chat).”

[Vermont Board of Nursing, \*Position Statement: Licensing Requirements for Nurses Performing Telehealth Nursing to Vermonters from Outside Vermont\* \(2012\).](#)

## PRIVACY/CONFIDENTIALITY

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.



## VERMONT

### MINORS

#### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

However, psychologists and clinical social workers are required to disclose certain information to clients (e.g., their professional qualifications, the statutory definition of “unprofessional conduct,” etc.), and regulations note that when the client is not able to understand the disclosure, as in the case of a minor, the disclosure must be made to a suitable parent or guardian.

[04-30-270 VT. CODE R. § 6.8](#); [04-30-070 VT. CODE R. § 4.2](#).

### FOLLOW-UP CARE

#### What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

#### 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?

None identified.

### 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.

- All health insurance plans in Vermont “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.”
  - » “Health insurance plan” is defined to mean “any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well as Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for specified disease or other limited benefit coverage.”



## VERMONT

### 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? CONTINUED

- “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.”
- “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.”
- “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.”

[VT. STAT. ANN. tit. 8, § 4100k.](#)

### Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

The *Provider Manual* issued by the Department of Vermont Health Access (“DHVA”) (i.e., Vermont Medicaid) states the following with respect to telemedicine:

- “Distance site providers are required to follow correct coding in the application of the GT modifier – CMS and/or Encoder Pro telemedicine codes excluding non-covered services[.]”
- “Originating site providers (patient site) are required to document the reason the service is being provided by telemedicine rather than in person and may be reimbursed a facility fee (Q3014).”
- “DHVA will not reimburse for teleophthamology or teledermatology by store and forward means.”

Additionally, the DHVA’s *Provider Manual* cites the “telemedicine” definition noted in the first row of the chart (“the delivery of health care services . . . through the use of live interactive audio and video over a secure connection that complies with [HIPAA requirements]. Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.”).

[Department of Vermont Health Access, Provider Manual, § 10.3.52 \(April 18, 2016\).](#)



## VERMONT

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

A “regulated drug” under Vermont’s controlled substances provisions means:

- a narcotic drug;
- a depressant or stimulant drug, other than methamphetamine;
- a hallucinogenic drug;
- ecstasy;
- marijuana; or
- methamphetamine.

The following are further defined:

Narcotic, “narcotics,” or “narcotic drugs” means opium, coca leaves, pethidine (isonipecaine, meperidine), and opiates or their compound, manufacture, salt, alkaloid, or derivative, and every substance neither chemically nor physically distinguishable from them, and preparations containing such drugs or their derivatives, by whatever trade name identified and whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis, as the same are so designated in the regulations adopted by the Board of Health under section 4202 of this title.

[VT. STAT. ANN. tit. 18, § 4201.](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances?”

“No person shall . . . prescribe, dispense, or compound any regulated drug . . . without having first obtained a license from the respective professional board having jurisdiction over that person as so designated in subdivision 4201(1) of this title, or, in the event no professional board has such jurisdiction over a person, from the board of health under terms adopted by that board corresponding to those respecting professional licenses.”

[VT. STAT. ANN. tit. 18, § 4206.](#)

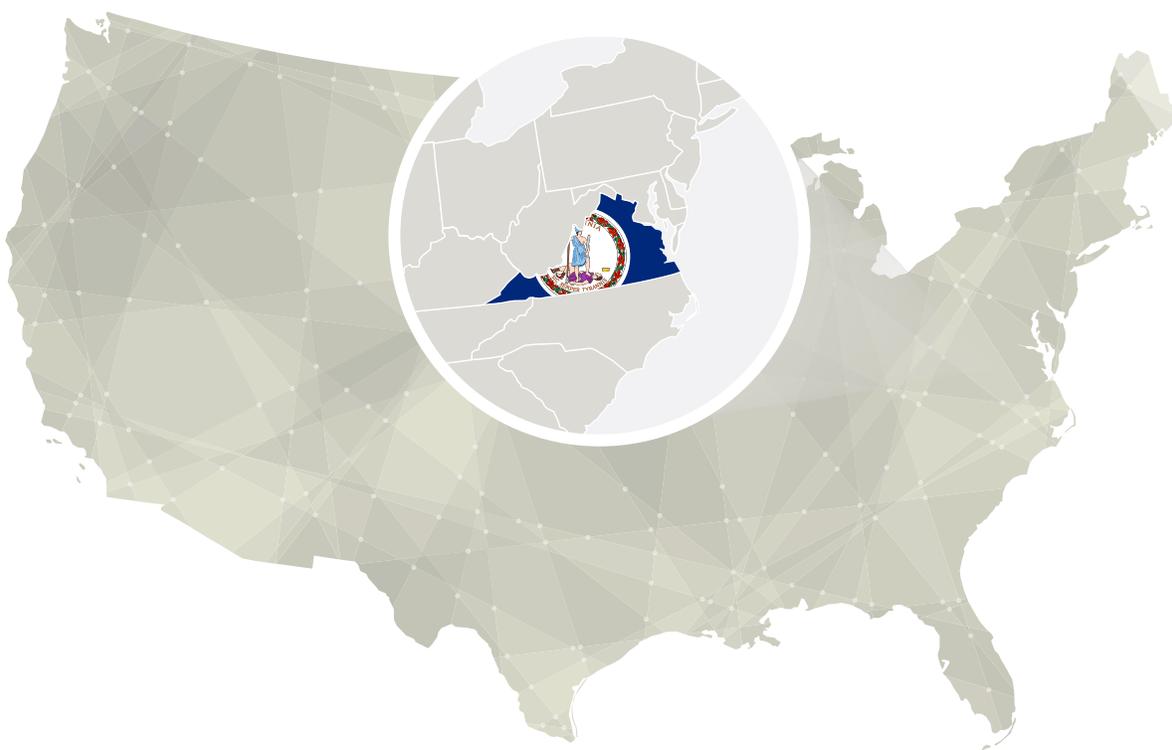
“A physician or dentist licensed under this chapter, in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense regulated drugs and he or she may cause the same to be administered for medical purposes only by a nurse licensed under this chapter, or an intern, medical or dental assistant, or resident, or in his or her absence by a responsible member of the family of the patient, under his or her direction and supervision.”

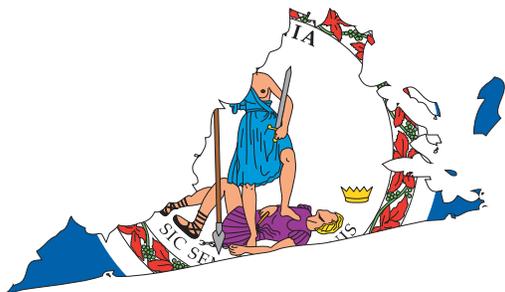
[VT. STAT. ANN. tit. 18, § 4214.](#)

Every physician and hospital must “report to the board of health, promptly, all cases wherein a person has been or is being treated for the use of, or for problems arising from the use of, regulated drugs. Said reports shall include the type of problem being treated, the class of regulated drug which was used, and such further information as is required by regulation of the board of health as promulgated under section 4202 of this title, except that the regulations shall not require the listing or other identification of the names of the persons being so treated.”

[VT. STAT. ANN. tit. 18, § 4217.](#)

# VIRGINIA



**VIRGINIA****What is the definition of “telemedicine” or “telehealth”?**

Virginia defines “telemedicine services” as “the use of interactive audio, video, or other electronic media used for the purpose of diagnosis, consultation, or treatment.” This does not include an audio-only telephone, electronic mail message, or facsimile transmission.

[VA. CODE ANN. § 38.2-3418.16\(b\).](#)

“Telemedicine is the real-time or near real time two-way transfer of medical data and information using an interactive audio/video connection for the purposes of medical diagnosis and treatment.”

[Virginia Department of Medical Assistance Services, Physician/Practitioner Manual, ch. IV \(Covered Services and Limitations\), p. 25 \(rev. July 31, 2015\).](#)

**What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?**

None identified.

**PSYCHIATRISTS****What is the regulatory body in the state that governs the practice of psychiatry?**

[Virginia Board of Medicine](#)

**What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?**

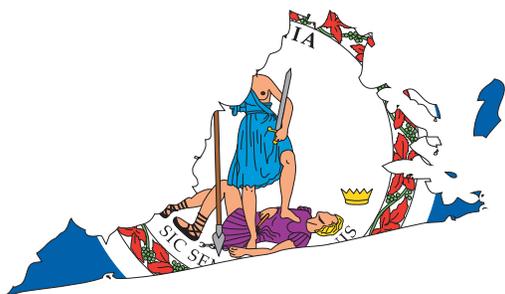
“A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner’s identity and 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 85-12 \(Telemedicine\) \(adopted Feb. 19, 2015\).](#)

**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.

However a license issued by the Virginia Board of Medicine is generally required to practice as a psychiatrist in Virginia.

**VIRGINIA****What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

“[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 [Va. Code Ann.] [§ 54.1-3303](#) and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some 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 Medicine, Guidance Document 85-12 \(Telemedicine\) \(adopted Feb. 19, 2015\).](#)

**Does a psychiatrist have prescribing authority?****If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?**

Yes.

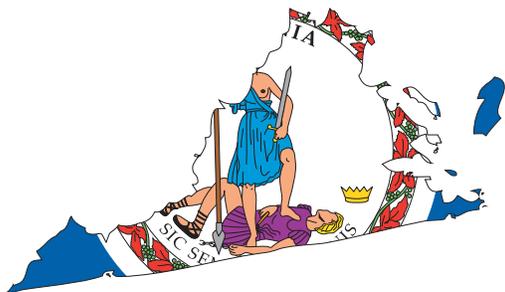
“For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects.”

[VA. CODE ANN. § 54.1-3303.](#)

“Prescribing medications, 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 medications 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) as amended by HB 2063. Additionally, 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 85-12 \(Telemedicine\) \(adopted Feb. 19, 2015\).](#)

**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?**

The term “telemedicine services’ does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.”

[VA. CODE ANN. § 38.2-3418.16\(b\).](#)

**PSYCHOLOGISTS**

**What is the regulatory body in the state that governs the practice of psychology?**

[Virginia Board of Psychology](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, a license issued by the Virginia Board of Psychology is generally required to practice as a psychologist in Virginia.

Virginia has certain exemptions from the licensure requirements, including for “[a]ny psychologist holding a license or certificate in another state, the District of Columbia, or a United States territory or foreign jurisdiction when in Virginia temporarily and such psychologist has been issued a temporary license by the Board to participate in continuing education programs or rendering psychological services without compensation to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge as provided in § 54.1-106.”

[VA. CODE ANN. § 54.1-3601\(7\).](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority?  
If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

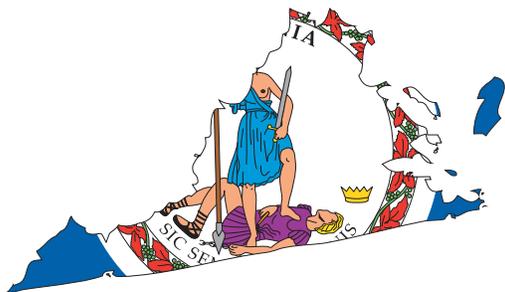
No.

[VA. CODE ANN. § 54.1-3602.](#)

**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.

See Psychiatrists section above.

**VIRGINIA****SOCIAL WORKERS**

**What is the regulatory body in the state that governs the practice of social work?**

[Virginia Board of Social Work](#)

**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)?**

“A social worker providing services to a client located in Virginia through technology-assisted therapy must be licensed by the Virginia Board of Social Work.”

[Virginia Board of Social Work, Guidance Document 140-3 \(Guidance on Technology-Assisted Therapy and the Use of Social Media\) \(adopted Oct. 25, 2013\).](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

However, a social worker must “inform clients of potential risks and benefits of services and the limitations on confidentiality and ensure that clients have provided informed written consent to treatment.”

[18 VA. ADMIN. CODE § 140-20-150.](#)

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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?**

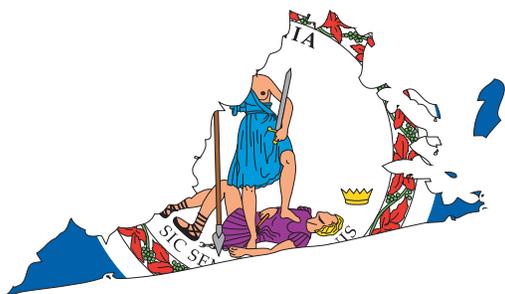
None identified.

**COUNSELORS**

**What is the regulatory body in the state that governs the practice of counseling?**

[Virginia Board of Counseling](#)

## VIRGINIA



### 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 [[18 VA. ADMIN. CODE § 115-20-130](#)] shall apply to the practice of counseling.”

“Counseling is best in the traditional sense, in person in a face-to-face relationship, in the same room. Counseling may be continued using technology-assisted means after it is initiated in a traditional setting. Counseling that from the outset is delivered in a technology-assisted manner is less than desirable in that issues of the counseling relationship, client identity and other issues may be compromised.”

[Virginia Board of Counseling, Guidance Document 115-1.4 \(Guidance on Technology-Assisted Counseling and Technology-Assisted Supervision\) \(adopted Aug. 8, 2008\).](#)

### 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 Virginia Board of Counseling is generally required to practice as a counselor in Virginia.

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a counselor have prescribing authority?

If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?

No.

### 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.  
See Psychiatrists section above.

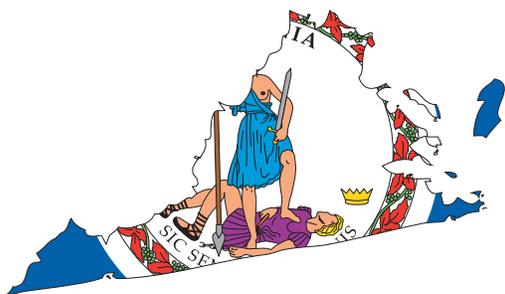
## MARRIAGE/FAMILY THERAPISTS

### What is the regulatory body in the state that governs the practice of marriage/family therapy?

[Virginia Board of Counseling](#)

### What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

None identified.

**VIRGINIA**

**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 Virginia Board of Counseling is generally required to practice as a marriage and family therapist in Virginia.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

However, marriage and family therapists must inform clients of the purposes, goals, techniques, procedures, limitations, potential risks, and benefits of services to be performed, the limitations of confidentiality, and other pertinent information when counseling is initiated, and throughout the counseling process, as necessary. Marriage and family therapists also must provide clients with accurate information regarding the implications of diagnosis, the intended use of tests and reports, fees, and billing arrangements.

[18 VA. ADMIN. CODE § 115-50-110.](#)

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

**ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Virginia Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?**

None identified.

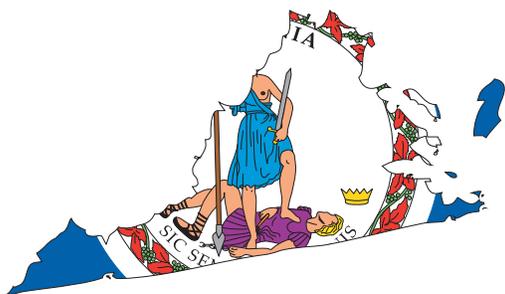
**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?**

None identified.

However “a license to practice registered nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a registered nurse in such party state. A license to practice licensed practical nursing issued by a home state to a resident in that state will be recognized by each party state as authorizing a multistate licensure privilege to practice as a licensed practical nurse in such party state. In order to obtain or retain a license, an applicant must meet the home state’s qualifications for licensure and license renewal as well as all other applicable state laws.”

[VA. CODE ANN. § 54.1-3032.](#)

## VIRGINIA



**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority?  
If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes.

See Psychiatrists section above (regarding telehealth-specific conditions/limits).

**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.

See Psychiatrists section above.

### PRIVACY/CONFIDENTIALITY

**Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?**

None identified.

### MINORS

**What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?**

None identified.

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

One of the requirements of having a bona fide physician-patient relationship is to “initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects” when providing care through telemedicine.

[VA. CODE ANN. § 54.1-3303.](#)

**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?**

None identified.

**VIRGINIA****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.

“[E]ach insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine services, as provided in this section.”

“An insurer, corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through face-to-face consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.”

[VA. CODE ANN. § 38.2-3418.16\(A\) & \(C\).](#)

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

None identified.

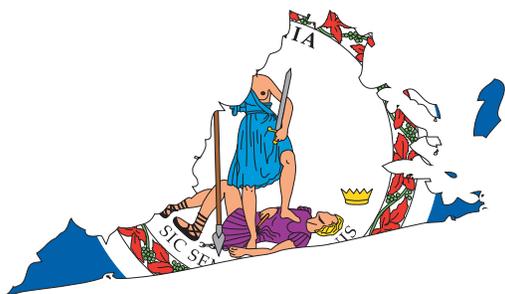
**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

Coverage is available for all Virginia Medicaid recipients, irrespective of whether recipients have Medicaid fee-for-service or Medicaid managed care organization coverage.

Eligible services:

- Office visits
- Individual psychotherapy
- Family psychotherapy
- Group psychotherapy
- Colposcopy
- Fetal non-stress test
- Obstetric ultrasound
- Fetal echocardiography
- Cardiography interpretation and report only
- Echocardiography
- Speech therapy services
- Radiology and radiology related procedures

**VIRGINIA**

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED**

- Remote imaging for detection of diabetic retinopathy; remote imaging for monitoring and management of diabetic retinopathy with physician review, interpretation and report
- Remote imaging using fundus photography for monitoring and management of diabetic retinopathy, with interpretation
- Crisis intervention

Eligible providers:

- Physicians
- Nurse practitioners
- Nurse midwives
- Clinical nurse specialists
- Clinical psychologists
- Clinical social workers
- Licensed professional counselors
- Speech pathologists (speech therapy only)

[Virginia Department of Medical Assistance Services, Physician/Practitioner Manual, ch. V \(Billing Instructions\), pp. 21-26 \(rev. July 31, 2015\).](#)

## CONTROLLED SUBSTANCES

**How are “controlled substances” defined by the state?**

Virginia statutes define “controlled substance” to mean “a drug, substance, or immediate precursor in Schedules I through VI. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term ‘controlled substance’ includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of [Va. Code Ann.] § [54.1-3443](#).”

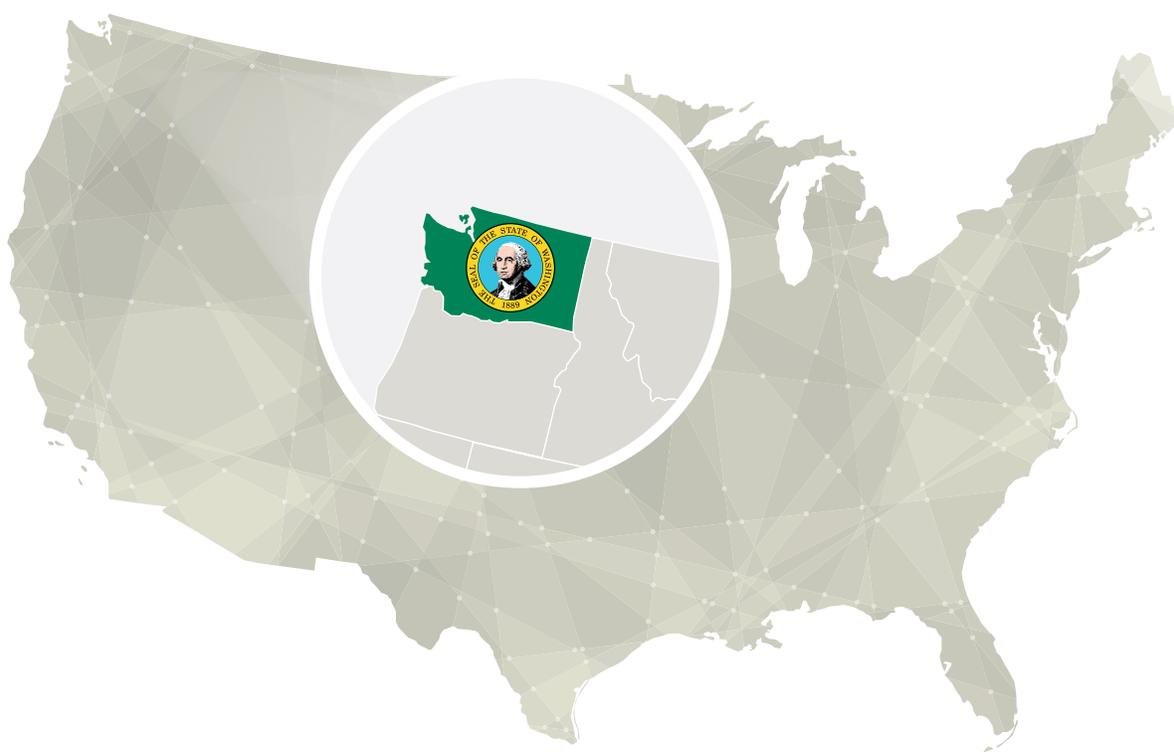
[VA. CODE ANN. § 54.1-3401.](#)

**What are the requirements/laws governing the prescribing of “controlled” substances?”**

“A prescription for a controlled substance may be issued only by a practitioner of medicine . . . who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to [Va. Code Ann.] § [54.1-2957.01](#), a licensed physician assistant pursuant to [Va. Code Ann.] § [54.1-2952.1](#), or a TPA-certified optometrist pursuant to Article 5 [Va. Code Ann.] § [54.1-3222](#) et seq.). The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons . . . with whom the practitioner has a bona fide practitioner-patient relationship.”

[VA. CODE ANN. § 54.1-3303.](#)

# WASHINGTON





## 50-State Survey of Telemental/Telebehavioral Health

**WASHINGTON****What is the definition of “telemedicine” or “telehealth”?**

Legislation effective January 1, 2017, related to insurer reimbursement of telemedicine services, says the following:

“‘Telemedicine’ means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. For purposes of this section only, ‘telemedicine’ does not include the use of audio-only telephone, facsimile, or email.”

“Health care provider” or “provider” is defined as follows:

- “(a) A person regulated under Title 18 [(includes all professionals discussed in this chart)] or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or
- (b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.”

[Senate Bill 5175 \(enrolled; filed Apr. 27, 2015\); WASH. REV. CODE § 48.43.005.](#)

The Washington State Department of Health’s Medical Quality Assurance Commission guidelines define “telemedicine” as “[t]he practice of medicine using enabling technology between a practitioner [(defined as an allopathic physician or PA)] in one location and a patient in another location with or without an intervening practitioner. It is a tool in medical practice, not a separate form of medicine.”

[Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, \*Appropriate Use of Telemedicine\* \(eff. Oct. 2014\).](#)

Washington regulations specific to the provision of home health services define “telemedicine” as “the use of telemonitoring to enhance the delivery of certain home health skilled nursing services through: (1) The collection of clinical data and the transmission of such data between a patient at a distant location and the home health provider through electronic processing technologies. Objective clinical data that may be transmitted includes, but is not limited to, weight, blood pressure, pulse, respirations, blood glucose, and pulse oximetry; or (2) The provision of certain education related to health care services using audio, video, or data communication instead of a face-to-face visit.”

[WASH. ADMIN. CODE § 128-551-2010.](#)

Washington regulations specific to the practice of physical therapy define “telehealth” as “providing physical therapy via electronic communication where the physical therapist or physical therapist assistant and the patient are not at the same physical location.”

[WASH. ADMIN. CODE § 246-915-187.](#)

**What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?**

None identified.

**PSYCHIATRISTS**

**What is the regulatory body in the state that governs the practice of psychiatry?**

[Washington State Department of Health](#)



## WASHINGTON

### What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

Washington Department of Health's Medical Quality Assurance Commission guidelines provide:

The Telemedicine practitioner may provide any treatment deemed appropriate for the patient, including prescriptions, if the evaluation performed is adequate to justify the action taken. The practitioner is responsible for knowing the limitations of the care he or she can provide, no matter how the care is delivered. Just as in a traditional setting, Telemedicine practitioners should recognize situations that are beyond their expertise, their ability, or the limits of available technology to adequately evaluate or manage in the existing circumstances, and refer such patients for appropriate care.

[Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, \*Appropriate Use of Telemedicine\* \(eff. Oct. 2014\)](#)

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Yes.

Washington Department of Health's Medical Quality Assurance Commission guidelines provide the following:

A practitioner using Telemedicine to practice medicine on patients in Washington must be licensed to practice medicine in Washington.

1. This includes practitioners who treat or prescribe to Washington patients through online service sites.
2. The licensure exemption in RCW 18.71.030(6) does not apply to Telemedicine practice. RCW 18.71.030(6) exempts from the licensing requirement "The practice of medicine by any practitioner licensed by another state or territory in which he or she resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state." As the legislature created this exemption in 1909, it clearly was not designed to apply to Telemedicine. Our state supreme court has stated that this exemption "merely permits out-of-state physicians temporarily within the state, but without an office or similar professional connections, to practice their calling while in Washington." The Commission interprets this exemption as applying to physicians who are physically in the state and treating patients in-person, but on a temporary basis, such as a physician for a sports team visiting the state. The Commission's interpretation is consistent with the statement by the state supreme court and with the Commission's mission to protect the public. The Commission must have the ability to prevent unqualified physicians from practicing in our state and to take disciplinary action against practitioners who commit unprofessional conduct or are impaired.

In a footnote, the guidelines note that "[t]he Commission recognizes that there may be situations in which a patient, following in-person contact with a practitioner in Washington, may communicate with that practitioner by phone, e-mail or other technology for clarification, advice or follow-up regarding that visit from somewhere outside Washington. Response of the practitioner in such situations, even if not licensed for the location of the patient at that time, would not be considered unlicensed or illegal practice."

[Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, \*Appropriate Use of Telemedicine\* \(eff. Oct. 2014\)](#)



## WASHINGTON

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)? CONTINUED

Further, according to older guidelines from the Washington Department of Health's Medical Quality Assurance Commission, "[p]hysicians who treat or prescribe through Internet web sites are practicing medicine and must possess appropriate licensure in all jurisdictions where the patients reside."

[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?

Washington Department of Health's Medical Quality Assurance Commission guidelines say the following:

- "When practicing Telemedicine, a practitioner must establish a practitioner-patient relationship with the patient. The absence of in-person contact does not eliminate this requirement. Patient completion of a questionnaire does not, by itself, establish a practitioner-patient relationship, and therefore treatment, including prescriptions, based solely on a questionnaire does not constitute an acceptable standard of care."
  - » A "practitioner-patient relationship" means "[t]he relationship between a provider of medical services (practitioner) and a receiver of medical services (patient) based on mutual understanding of their shared responsibility for the patient's health care. The relationship is clearly established when the practitioner agrees to undertake diagnosis and/or treatment of the patient and the patient agrees that the practitioner will diagnose and/or treat, whether or not there has been or is an in-person encounter between the parties. The parameters of the practitioner-patient relationship for Telemedicine should mirror those that would be expected for similar in-person medical encounters."
- "An appropriate history and evaluation of the patient must precede the rendering of any care, including provision of prescriptions. Not all patient situations will be appropriate for Telemedicine. Since, by definition, Telemedicine does not involve in-person contact between practitioner and patient, if circumstances require in-person contact, an appropriate surrogate examiner acceptable to the Telemedicine practitioner and the patient must be present, with the patient, to provide necessary in-person observations, or the Telemedicine practitioner should advise the patient to be seen by a practitioner in-person. Evaluating the adequacy and significance of any surrogate examination remains the responsibility of the Telemedicine practitioner."
- "As with medical care involving in-person contact, a practitioner should obtain and document appropriate informed consent for Telemedicine encounters. Because of the unique characteristics of Telemedicine, it is best practice for the informed consent to include:
  - a. Reasonable understanding by all parties of the enabling technologies utilized, their capabilities and limitations, and a mutual agreement that they are appropriate for the circumstances;
  - b. The credentials of the practitioner."

[Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, \*Appropriate Use of Telemedicine\* \(eff. Oct. 2014\).](#)



## WASHINGTON

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth? CONTINUED

Guidelines from the Washington Department of Health's Medical Quality Assurance Commission provide the following:

- “[The physician-patient relationship] tends to begin when an individual seeks assistance from a physician with a health-related matter for which the physician may provide assistance. However, the relationship is clearly established when the physician agrees to undertake diagnosis and treatment of the patient and the patient agrees, whether or not there has been a personal encounter between the physician (or other supervised health care practitioner) and patient.”
- “A documented patient evaluation, including history and physical evaluation adequate 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.”

[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?

Yes.

“Prescribing medications, whether in person or via Telemedicine, is at the professional discretion of the practitioner. The practitioner, in accordance with current standards of practice, must evaluate the indications, appropriateness, and safety considerations for each Telemedicine prescription. Telemedicine prescriptions entail the same professional accountability as prescriptions incident to an in-person contact. Where appropriate clinical procedures and considerations are applied and documented, practitioners may exercise their judgment and prescribe medications as part of Telemedicine. Especially careful consideration should apply before prescribing DEA-controlled substances, and compliance with all laws and regulations pertaining to such prescriptions is expected. Measures to assure informed, accurate and error-free prescribing practices (e.g. integration with e-Prescription services) are encouraged.”

[Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, \*Appropriate Use of Telemedicine\* \(eff. Oct. 2014\).](#)

Also, guidelines from the Washington Department of Health's Medical Quality Assurance Commission related to the “Appropriate Use of the Internet in Medical Practice” state that “[t]reatment 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 in-person settings. Treatment, including issuing a prescription, based solely on an online questionnaire or consultation does not constitute an acceptable standard of care.”

[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 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, see “telemedicine” definition above related to the insurance parity provisions.



## 50-State Survey of Telemental/Telebehavioral Health

**WASHINGTON****PSYCHOLOGISTS**

**What is the regulatory body in the state that governs the practice of psychology?**

[Washington State Department of Health](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, a license issued by the Washington State Department of Health is generally required to practice as a psychologist in Washington.

Licensed, out-of-state psychologists may petition the Washington Examining Board of Psychology (under the Washington State Department of Health) for a temporary permit to practice within the state for a period not to exceed 90 days in a calendar year.

[WASH. REV. CODE § 18.83.082.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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, *see* “telemedicine” definition above related to the insurance parity provisions.

**SOCIAL WORKERS**

**What is the regulatory body in the state that governs the practice of social work?**

[Washington State Department of Health](#)

**What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?**

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**WASHINGTON**

**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 Washington State Department of Health is generally required to practice as a social worker in Washington.

“An applicant holding a credential in another state may be licensed to practice in this state without examination if the secretary determines that the other state’s credentialing standards are substantially equivalent to the licensing standards in this state.”

[WASH. REV CODE § 18.225.140.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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, *see* “telemedicine” definition above related to the insurance parity provisions.

## COUNSELORS

**What is the regulatory body in the state that governs the practice of counseling?**

[Washington State Department of Health](#)

**What are the restrictions on the scope of practice for counselors 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)?**

*See Social Workers section above.*

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.



## WASHINGTON

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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, *see* “telemedicine” definition above related to the insurance parity provisions.

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Washington State Department of Health](#)

**What are the restrictions on the scope of practice for marriage/family therapists 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)?**

*See Social Workers section above.*

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority?  
If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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, *see* “telemedicine” definition above related to the insurance parity provisions.



## WASHINGTON

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Washington State Department of Health](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

None identified.

However, a license issued by the Washington State Department of Health is generally required to practice as an APRN in Washington.

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority?  
If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes, subject to applicable requirements. No specific conditions for prescribing via telemedicine were identified.

[WASH. REV. CODE § 18.79.250.](#)

**What are the acceptable modalities (e.g., telephone, video) for the practice of advanced practice nursing via telemedicine/telehealth that meet the standard of care for the state?**

None identified. However, *see* “telemedicine” definition above related to the insurance parity provisions.

### PRIVACY/CONFIDENTIALITY

**Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?**

None identified.

However, Washington Department of Health’s Medical Quality Assurance Commission guidelines generally provide that “[p]ractitioners [(defined as allopathic physicians and allopathic physician assistants)] providing Telemedicine services must document the encounter appropriately and completely so that the record clearly, concisely and accurately reflects



## WASHINGTON

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services? CONTINUED

what occurred during the encounter. Such records should be permanent and easily available to or on behalf of the patient and other practitioners in accordance with patient consent, direction and applicable standards. Practitioners should maintain security and confidentiality of the medical record in compliance with applicable laws and regulations related to the maintenance and transmission of such records.”

[Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, \*Appropriate Use of Telemedicine\* \(eff. Oct. 2014\).](#)

Commission guidelines governing the “Appropriate Use of the Internet in Medical Practice” provide as follows:

- “A written agreement should be employed documenting patient informed consent for the use of patient-physician e-mail. The agreement should be discussed with and signed by the patient and included in the medical record. The agreement should include the following terms:
  - » Types of transmissions that will be permitted (prescription refills, appointment scheduling, patient education, etc.)
  - » Under what circumstances alternate forms of communication or office visits should be utilized
  - » Security measures, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy
  - » Hold harmless clause for information lost due to technical failures
  - » Requirement for express patient consent to forward patient-identifiable information to a third party
  - » Patient’s failure to comply with the agreement may result in physician terminating the e-mail relationship.”
- “The medical record should include copies of all patient-related electronic communications, including patient-physician e-mail, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions. Informed consent agreements related to the use of e-mail should also be filed in the medical record.”
- “Physicians should meet or exceed applicable federal and state legal requirements of medical/health information privacy. Physicians must comply with The Uniform Health Care Information Act, RCW 70.02. Physicians are referred to “Standards for Privacy of Individually Identifiable Health Information” issued by the Department of Health and Human Services (HHS). 8 Guidance documents are available on the HHS Office for Civil Rights web site at [www.hhs.gov/ocr/hipaa](http://www.hhs.gov/ocr/hipaa).”
- “Written policies and procedures should be maintained for the use of patient-physician electronic mail. 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 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 be secure within existing technology (i.e., password protected, encrypted electronic prescriptions, or other reliable authentication techniques). All patient-physician e-mail, as well as other patient-related electronic communications, should be stored and filed in the patient’s medical record.
- “Turnaround time should be established for patient-physician e-mail and medical practice sites should clearly indicate alternative form(s) of communication for urgent matters. E-mail systems should be configured to include an automatic reply to acknowledge message delivery and that messages have been read. Patients should be encouraged to confirm that they have received and read messages.”

[Washington State Department of Health, Health Professions Quality Assurance Division, Medical Quality Assurance Commission, \*Guidelines for Appropriate Use of the Internet in Medical Practice\* \(eff. Oct. 2002\).](#)

Also, specific confidentiality provisions apply to psychologists (see [WASH. ADMIN. CODE § 246-924-363](#)).



## 50-State Survey of Telemental/Telebehavioral Health

**WASHINGTON****MINORS**

What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

**FOLLOW-UP CARE**

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

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?

None identified.

**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, but it does not take effect until January 1, 2017.

Legislation signed into law in April 2015 provides for telemedicine coverage and reimbursement under private insurance and the Washington Medicaid program, adding new sections to existing provisions found at WASH. REV. CODE §§ 41.05, 48.43, and 74.09. See relevant “telemedicine” definition above.

[Senate Bill 5175 \(enrolled; filed Apr. 27, 2015\).](#)

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.



## WASHINGTON

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes. Fee-for-service clients are eligible for medically necessary services delivered via telemedicine.

By regulation, the following definitions/coverage criteria apply:

- “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.”
- The following services are not covered “as telemedicine:
  - (a) E-mail, audio only telephone, and facsimile transmissions;
  - (b) Installation or maintenance of any telecommunication devices or systems; and
  - (c) Purchase, rental, or repair of telemedicine equipment.”
- Approved originating sites (the physical location of the client when services are provided) “are:
  - (a) Clinics;
  - (b) Community mental health/chemical dependency settings;
  - Dental offices;
  - (c) Federally qualified health centers;
  - (d) Home or any location determined appropriate by the individual receiving the service;
  - (e) Hospitals - Inpatient and outpatient;
  - (f) Neurodevelopmental centers;
  - (g) Physician or other health professional’s office;
  - (h) Rural health clinics;
  - (i) Schools; and
  - (j) Skilled nursing facilities.”
- The Washington State Health Care Authority (the Medicaid agency) “pays an additional facility fee per completed transmission to either the originating site or the distant site, as specified in the agency’s program-specific billing instructions.”
- “If a health care professional performs a separately identifiable service for the client on the same day as the telemedicine service, documentation for both services must be clearly and separately identified in the client’s medical record.”

[WASH. ADMIN. CODE § 182-531-1730.](#)

Washington’s Medicaid manual includes the following additional criteria:

- “The referring provider is responsible for determining and documenting that telemedicine is medically necessary. As a condition of payment, the client must be present and participating in the telemedicine visit. Clients under the Family Planning, TAKE CHARGE, First Steps, and School-Based Health Care Services programs are eligible for telemedicine through fee-for-service.”



## WASHINGTON

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services?

If so, what are the coverage criteria? CONTINUED

- “The agency will not pay separately for telemedicine services for clients enrolled in a managed care plan. Clients enrolled in an agency-contracted managed care organization (MCO) are identified as such in ProviderOne. MCO enrollees must have all services arranged and provided by their primary care providers (PCP). Contact the MCO regarding whether or not the plan will authorize telemedicine coverage.”
- “The payment amount for the professional service provided through telemedicine by the provider at the distant site is equal to the current fee schedule amount for the service provided.”

[Washington State Health Care Authority, \*Physician-Related Services/Health Care Professional Services Provider Guide\*, pp. 64-65 \(Jan. 2016\).](#)

Provisions related to telemedicine reimbursement for Washington Medicaid managed care plan patients (which are effective January 1, 2017) are available at [WASH. REV. CODE § 740.09.325](#).

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

Washington statutes define “controlled substance” as “a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or pharmacy quality assurance commission rules.”

[WASH. REV. CODE § 246.935.410.](#)

### What are the requirements/laws governing the prescribing of “controlled” substances?”

“A valid prescription or lawful order of a practitioner, in order to be effective in legalizing the possession of controlled substances, must be issued in good faith for a legitimate medical purpose by one authorized to prescribe the use of such controlled substance. An order purporting to be a prescription not in the course of professional treatment is not a valid prescription or lawful order of a practitioner within the meaning and intent of this chapter; and the person who knows or should know that the person is filling such an order, as well as the person issuing it, can be charged with a violation of this chapter.”

[WASH. REV. CODE § 69.50.308.](#)

“Information concerning a prescription for a controlled substance included in Schedules II through V, or information concerning a refill authorization for a controlled substance included in Schedules III through V[,], may be electronically communicated to a pharmacy of the patient’s choice pursuant to the provisions of this chapter if the electronically communicated prescription information complies with [certain requirements]” (see full text of statute for requirements).

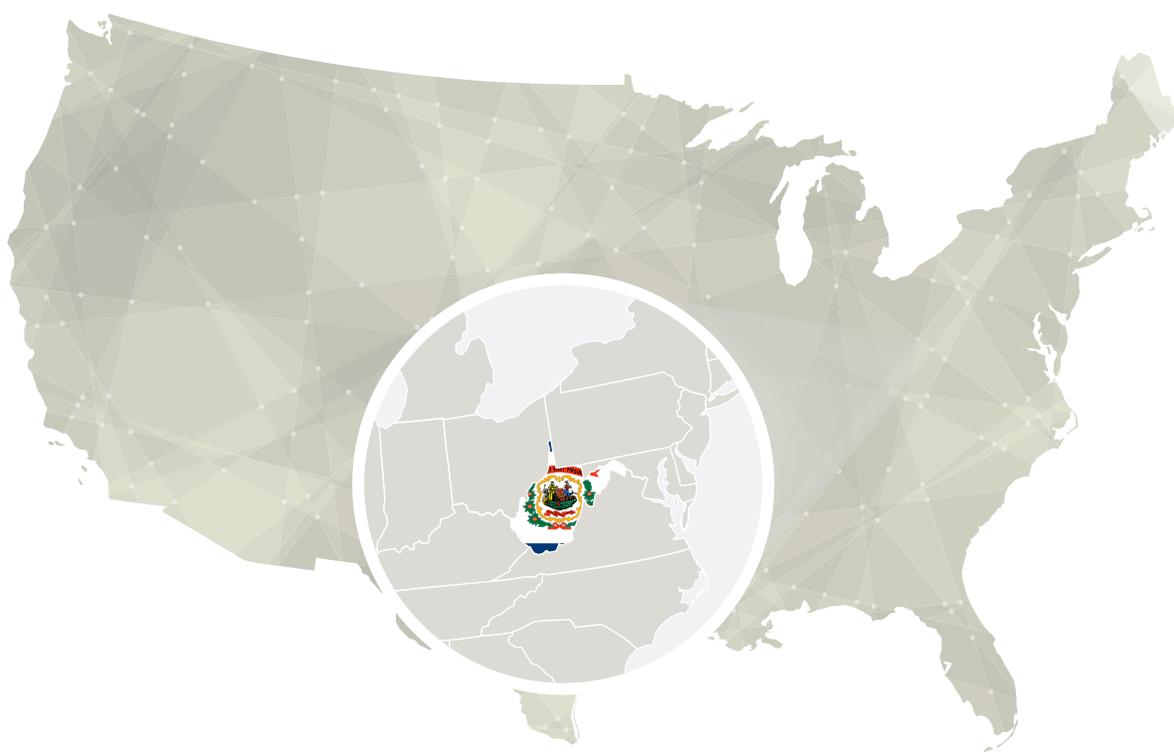
[WASH. REV. CODE § 69.50.312.](#)

“The Schedule II stimulants listed in WAC 246-887-040 may be prescribed, dispensed, or administered to patients for the following disease states or conditions:

- (1) Disease states or conditions listed in RCW 69.50.402 (3)(ii);
- (2) Multiple sclerosis.”

[WASH. ADMIN. CODE § 246-887-045](#); (see Wash. Admin. Code Chapter 246-887 for further detail on this and additional controlled substances-related requirements).

# WEST VIRGINIA





## WEST VIRGINIA

### What is the definition of “telemedicine” or “telehealth”?

West Virginia defines the “practice of telemedicine” as “the use of electronic information and communication technologies to provide health care when distance separates participants and includes one or both of the following: (1) the diagnosis of a patient within this state by a physician located outside this state as a result of the transmission of individual patient data, specimens or other material by electronic or other means from within this state to the physician or his or her agent; or (2) 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, specimens or other material by electronic or other means from within this state to the physician or his or her agent.”

[W. VA. CODE § 30-3-13.](#)

The West Virginia Board of Medicine position statement on telemedicine includes the following definitions:

“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 health-care provider. Generally, telemedicine is not an audio-only, telephone conversation, email/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. The utilization of electronic communication in on-call, cross-coverage and emergency services situations does not constitute telemedicine.

“Telemedicine Technologies” means technologies and devices enabling secure electronic communications and information exchange between a licensee in one location and a patient in another location with or without an intervening health-care provider. There are three broad categories of telemedicine technologies: store-and-forward telemedicine; remote monitoring telemedicine; and real-time interactive telemedicine services.

[West Virginia Board of Medicine, Telemedicine Position Statement \(adopted Nov. 3, 2014\).](#)

West Virginia’s *Medicaid Provider Manual* defines “telehealth” as “[t]he use of electronic information and telecommunications technologies to provide professional health care; is often used to connect practitioners and clinical experts in large hospitals or academic medical centers with patients in smaller hospitals or critical access hospitals which are typically located in more remote locations; and can assure that these remotely located patients enjoy the same access to potentially life-saving technologies and expertise that are available to patients in more populated parts of the country.”

[West Virginia Department of Health and Human Resources, Medicaid Provider Manual, ch. 519.17 Telehealth Services \(eff. Jan. 15, 2016\).](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[West Virginia Board of Medicine](#)



## WEST VIRGINIA

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes.

“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 the 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 the patients receive care.”

[West Virginia Board of Medicine, Telemedicine Position Statement \(adopted Nov. 3, 2014\).](#)

Further, under the West Virginia Medical Practice Act, “[a] person engaged in the practice of telemedicine [(as defined above)] is considered to be engaged in the practice of medicine within this state and is subject to the licensure requirements of this article.”

However, such licensure requirements do not apply to “[a]n individual physician or podiatrist, or physician or podiatrist groups, or physicians or podiatrists at a tertiary care or university hospital outside this state and engaged in the practice of telemedicine who consult or render second opinions concerning diagnosis or treatment of patients within this state: (i) In an emergency or without compensation or expectation of compensation; or (ii) on an irregular or infrequent basis which occurs less than once a month or less than twelve times in a calendar year.”

[W. VA. CODE § 30-3-13\(d\)\(3\).](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

The West Virginia Board of Medicine position statement on telemedicine notes the following:

- “For clarity, a physician using telemedicine technologies in the provision of medical services to a patient (whether existing or new) must take appropriate steps to establish the physician-patient relationship and conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation. As such, some situations and patient presentations are appropriate for the utilization of telemedicine technologies as a component of, or in lieu of, in-person provision of medical care, while others are not.”
- “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, it tends to begin when an individual with a health-related matter seeks assistance from a physician who may provide assistance. However, the relationship is clearly established when 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.”
- “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 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.”

**WEST VIRGINIA****What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth? CONTINUED**

- “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 and not be assigned to a physician at random.”
- “Where an existing physician-patient relationship is not present, a physician must take appropriate steps to establish a physician-patient relationship consistent with the guidelines [above], and, while each circumstance is unique, such physician-patient relationships may be established using telemedicine technologies provided the standard of care is met.”
- “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 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 (encounter in person) settings. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.”
- “Evidence documenting appropriate patient informed consent for the use of telemedicine technologies must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following terms:
  - » Identification of the patient, the physician and the physician’s credentials;
  - » Types of transmissions permitted using telemedicine technologies (e.g. prescription refills, appointment scheduling, patient education, etc.);
  - » The patient agrees that the physician determines whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;
  - » Details on security measures taken with the use of telemedicine technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
  - » Hold harmless clause for information lost due to technical failures; and
  - » Requirement for express patient consent to forward patient-identifiable information to a third party.”
- “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.”
- “An emergency plan is required and must be provided by the physician to the patient when the care provided using telemedicine technologies indicates that a referral to an acute care facility or ER for treatment is necessary for the safety of the patient. The emergency plan should include a formal, written protocol appropriate to the services being rendered via telemedicine technologies.”
- “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.”



## WEST VIRGINIA

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth? CONTINUED

[West Virginia Board of Medicine, Telemedicine Position Statement \(adopted Nov. 3, 2014\).](#)

The West Virginia Pharmacy Practice Act provides that a “valid patient-practitioner relationship” means the following have been established:

- A patient has a medical complaint;
- A medical history has been taken;
- A face-to-face physical examination adequate to establish the medical complaint has been performed by the prescribing practitioner or in the instances of telemedicine through telemedicine practice approved by the appropriate practitioner board; and
- Some logical connection exists between the medical complaint, the medical history, and the physical examination and the drug prescribed.”

[W. VA. CODE § 30-5-4\(67\).](#)

### Does a psychiatrist have prescribing authority?

#### If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Yes.

“Telemedicine 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. To further assure patient safety in the absence of physical examination, telemedicine technologies should limit medication formularies to ones that are deemed safe by the West Virginia Board of Medicine. 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.”

[West Virginia Board of Medicine, Telemedicine Position Statement \(adopted Nov. 3, 2014\).](#)

Per the West Virginia Pharmacy Practice Act, “[a] pharmacist may not compound or dispense any prescription order when he or she has knowledge that the prescription was issued by a practitioner without establishing a valid practitioner-patient relationship [(as defined in the row above)]. An online or telephonic evaluation by questionnaire, or an online or telephonic consultation, is inadequate to establish a valid practitioner-patient relationship: Provided, That this prohibition does not apply:

- (1) In a documented emergency;
- (2) In an on-call or cross-coverage situation; or
- (3) Where the patient care is rendered in consultation with another practitioner who has an ongoing relationship with the patient and who has agreed to supervise the patient’s treatment, including the use of any prescribed medications.”

[W. VA. CODE § 30-5-14.](#)



## 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?**

None identified.

### PSYCHOLOGISTS

**What is the regulatory body in the state that governs the practice of psychology?**

[West Virginia Board of Examiners of Psychologists](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

None identified.

However, a license issued by the West Virginia Board of Examiners of Psychologists is generally required to practice as a psychologist in West Virginia.

West Virginia does not require any license or temporary permit “for a psychologist who is not a resident of this state, who is the holder of a license or certificate to engage in the practice of psychology issued by a state with licensing or certification requirements determined by the board to be at least as great as those provided in this article, who has no regular place of practice in this state and who engages in the practice of psychology in this state for a period of not more than ten days in any calendar year.”

[W. VA. CODE § 30-21-3.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

No criteria are specifically identified. However, “[w]hen Psychologists conduct research or provide assessment, counseling, or consulting in person or via electronic transmission or other forms of communication, they obtain the informed consent of the individual or individuals using language that is reasonably understandable to that person or persons except when conducting such activities without consent is mandated by law or governmental regulation or as otherwise provided in this Ethics Code.”

[W. VA. CODE R. § 17-3-6](#) (notes that the Board adopts the American Psychological Association, Ethical



## WEST VIRGINIA

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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, there is a limitation on the use of Skype:

In July 2011, the APA Division 29 task force on tele-psychology observed that internet and cell phone communication do not have the same security as a land line phone. The task force accurately comments that “The Internet is not regulated and not currently protected by privacy laws. Skype, for example, is not an encrypted site and is, therefore, not a confidential means of communication. “The task force further comments that providing psychotherapy on unencrypted sites is ‘ill advised’”. The WV Board of Examiners agrees.

Because this does not completely preclude providing such services, extreme caution is advised. For those holding a license to practice in a given jurisdiction, clinical judgment and common sense must be vigorously employed in the choice to use such venue. In such a case, based on the APA’s conclusions and recommendations, the WV Board of Examiners believes the psychologist would need to:

1. Contact their malpractice insurance carrier to determine if Skype work is covered.
2. Contact the patient’s insurance to determine coverage.
3. Use Skype with an established patient determined not to be a high risk patient.
4. Make certain the patient fully understands that Skype is NOT the same as a phone conversation and is not protected by federal privacy law. It is an open/public forum and anything on Skype can be published/used/broadcast/etc. Signed consent would be needed before using Skype.

It is somewhat doubtful that all of the above would be approved once the full nature of Skype is known, but even then Skype should be used on a limited basis, not as a complete substitute for in person treatment.

[West Virginia Board of Examiners of Psychologists, Policy Statements, Tele-Psychology—Skype.](#)

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[West Virginia Board of Social Work](#)

**What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?**

None identified.



## WEST VIRGINIA

### 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 West Virginia Board of Social Work is generally required to practice as a social worker in West Virginia.

[W. VA. CODE R. § 30-30-1 et seq.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

“Social workers who provide services via electronic media (such as computer, telephone, radio, and television) should inform recipients of the limitations and risks associated with such services.”

[W. VA. CODE R. § 25-7-2](#) (references [National Association of Social Workers, Code of Ethics \(eff. Jan. 1, 2009\)](#)).

### Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?

No.

### 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.

## COUNSELORS

### What is the regulatory body in the state that governs the practice of counseling?

[West Virginia Board Examiners in Counseling](#)

### What are the restrictions on the scope of practice for counselors 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)?

Yes.

“Under the provisions of W.Va. Code § 30-31-1, it is unlawful for any person to practice or offer to practice professional counseling or marriage and family therapy in this state without a license. Be advised, it is the opinion of the Board that the requirements of W.Va. Code § 30-31-1, and all other rules and regulations governing the practice of professional



## WEST VIRGINIA

### Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)? CONTINUED

counseling or marriage and family therapy, shall be applicable to the practice of distance counseling and shall expressly apply to any person providing distance counseling, as defined herein, to a person who resides, or is domiciled, in the State of West Virginia.”

- “Distance counseling is defined as any counseling, including marriage and family therapy that is provided by any means other than direct in person services and is facilitated by the use of technology including, but not limited to, U.S. mail, telephone, telefax, email, internet or videoconference.”
- “Please note, current licensing rules do not include specific provisions for distance counseling, however, please note the following:
  - » The WV LPC providing distance counseling in WV is required to adhere to the distance counseling requirements detailed in the [2014 ACA Code of Ethics](#). Please click the title to download your copy. In addition, the board recommends the LPC review the [NBCC Policy Regarding the Provision of Distance Professional Services](#) to provide further guidance and ethical considerations when providing distance counseling. Please click the title to download your copy.
  - » The WV LMFT providing distance counseling in WV is required to adhere to the requirements included in the [AAMFT Code of Ethics](#), revised January 1, 2015. Please click the title to download your copy. The LMFT will also benefit from reviewing the [NBCC Policy Regarding the Provision of Distance Counseling Services](#).”

[West Virginia Board of Examiners in Counseling, \*Distance Counseling\* \(Oct. 2010\).](#)

While the above guidance appears to trump this exception, the relevant practice act provides that no license is required if “a nonresident professional counselor or marriage and family therapist who holds a license or other authorization to engaged in the practice of professional counseling or marriage and family therapy issued by another state, the qualifications for which in the opinion of the board are at least as stringent as those provided in section eight and section nine of this article, and who renders counseling services in this state for no more than thirty days in any calendar year.”

[W. VA. CODE R. § 30-31-11\(b\)\(2\).](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

### Does a counselor have prescribing authority?

If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?

No.

### 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.



## WEST VIRGINIA

### MARRIAGE/FAMILY THERAPISTS

What is the regulatory body in the state that governs the practice of marriage/family therapy?

[West Virginia Board Examiners in Counseling](#)

What are the restrictions on the scope of practice for marriage/family therapists 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)?

*See Counselors section above.*

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?

No.

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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

What is the regulatory body in the state that governs the practice of advanced practice nursing?

[West Virginia Board of Examiners for Registered Professional Nurses](#)

What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?

None identified.



## WEST VIRGINIA

### 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 West Virginia Board of Examiners for Registered Professional Nurses is generally required to practice as an APRN in West Virginia.

[West Virginia Board of Examiners for Registered Professional Nurses.](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

See Psychiatrists section above for such criteria as it relates to prescribing (Pharmacy Practice Act provisions).

### Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

Yes.

Because APRNs may only prescribe pursuant to a collaborative relationship with a physician, it appears that the requirements in the Psychiatrists section above would also likely apply to APRNs prescribing via telemedicine.

### 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.

## PRIVACY/CONFIDENTIALITY

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

The West Virginia Board of Medicine telemedicine position statement provides 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](http://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



## WEST VIRGINIA

### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services? CONTINUED

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 be secure within existing technology (i.e. password protected, encrypted electronic prescriptions, or other reliable authentication techniques). All patient-physician e-mail, 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.”

The position statement also includes a list of items that physicians providing medical services via telemedicine technologies should clearly disclose.

[West Virginia Board of Medicine, Telemedicine Position Statement \(adopted Nov. 3, 2014\).](#)

### MINORS

#### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

“Nothing in this article [(health records provisions)] shall be construed to require a health care provider responsible for diagnosis, treatment or administering health care services in the case of minors for birth control, prenatal care, drug rehabilitation or related services or venereal disease according to any provision of this code, to release patient records of such diagnosis, treatment or provision of health care as aforesaid to a parent or guardian, without prior written consent therefor from the patient, nor shall anything in this article be construed to apply to persons regulated under the provisions of chapter eighteen of this code or the rules and regulations established thereunder.”

[W. VA. CODE R. § 16-19-1\(b\).](#)

### FOLLOW-UP CARE

#### What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

As noted above, “[p]atients 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.”

[West Virginia Board of Medicine, Telemedicine Position Statement \(adopted Nov. 3, 2014\)](#)



## WEST VIRGINIA

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?

None identified.

### 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.

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

“West Virginia Medicaid covers and reimburses a limited number of Telehealth services that are provided to enrolled members by enrolled practitioners via a telecommunication system. West Virginia Medicaid utilizes the Centers for Medicare and Medicaid Services (CMS) guidance for Telehealth Services. Note: Not all services covered by Medicare are covered by West Virginia Medicaid as a Telehealth Service.”

- “The telecommunication system is defined as an interactive audio and video system that permits real-time communication between the member at the originating site and the practitioner at the distant site. The telecommunication technology must allow the treating practitioner at the distant site to perform a medical examination of the member that substitutes for an in-person encounter.”
- “The authorized originating sites are:
  - » The offices of physicians or practitioners;
  - » Private Psychological Practices;
  - » Hospitals;
  - » Critical Access Hospitals (CAH);
  - » Rural Health Clinics (RHC);
  - » Federally Qualified Health Centers (FQHC);
  - » Hospital-based or CAH-based Renal Dialysis Centers (including satellites);
  - » Skilled Nursing Facilities (SNF); and
  - » Community Mental Health Centers (CMHC).”



## WEST VIRGINIA

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services?

If so, what are the coverage criteria? CONTINUED

- “The authorized distant site practitioners are:
  - » Physicians;
  - » Physician Assistants (PA);
  - » Advanced Practice Registered Nurses (APRN)/Nurse Practitioners (NP);
  - » APRN/Certified Nurse Midwives (CNM);
  - » APRN/Clinical Nurse Specialists (CNS);
  - » Licensed Psychologists (LP); and
  - » Licensed Independent Clinical Social Worker (LICSW).”
- “The originating site must bill with the appropriate Telehealth code and distant site practitioners must bill the appropriate CPT/HCPCS code with the appropriate Telehealth modifier (GT). Claim forms must be submitted to the BMS Fiscal Agent for payment consideration.”
- “The originating site may bill for an office, outpatient, or inpatient E&M service that precedes the Telehealth service and for other Medicaid-covered services the distant site orders, or for services unrelated to the medical problem for which the Telehealth service was requested. The E&M service if applicable may be billed in addition to the originating site fee. However, the originating site may not bill for a second E&M service for activities provided during the Telehealth service.”
- “West Virginia Medicaid does not limit Telehealth services to members in non-metropolitan statistical professional shortage areas as defined by CMS Telehealth guidance.”
- “Behavioral Health providers should refer to the applicable Sections in [Chapter 502, Behavioral Health Clinic](#); [Chapter 503, Behavioral Health Rehabilitation](#); [Chapter 521, Psychological Services](#); [Chapter 536, Psychiatric Services](#); [Chapter 537, Licensed Independent Clinical Social Worker](#); and [Chapter 538, School-Based Health Services](#) for specific policy governing the provision of services under these chapters when using Telehealth as a method for service delivery.”
- Non-covered services include the following:
  - » “Telephones, facsimiles, or electronic mail systems do not qualify as interactive telecommunication systems. Separate payment for review and interpretation of medical records, telephone line charges, or facility fees are not covered.”
  - » “RHCs and FQHCs are not authorized to serve as a distant site for Telehealth consultations, which is the location of the practitioner, and may not bill or include the cost of a visit on the cost report.”

[West Virginia Department of Health and Human Resources, Medicaid Provider Manual, ch. 519.17 Telehealth Services \(eff. Jan. 15, 2016\).](#)



## WEST VIRGINIA

### CONTROLLED SUBSTANCES

#### How are “controlled substances” defined by the state?

West Virginia statutes define “controlled substance” as “a drug, substance or immediate precursor in Schedules I through V of article two of this chapter.”

[W. VA. CODE. R. § 60A-1-101.](#)

#### What are the requirements/laws governing the prescribing of “controlled” substances”?

None identified.

However, West Virginia regulations provide the following parameters with respect to dispensing controlled substances:

“Every person who . . . dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution, or dispensing of any controlled substance within this state, must obtain annually a registration issued by the state board of pharmacy or the appropriate department, board, or agency, as the case may be, as specified in section three hundred one, in accordance with its rules.”

[W. VA. CODE R. § 60A-3-302.](#)

“(a) 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 lawful prescription of a practitioner. (b) In emergency situations, as defined by rule of the said appropriate department, board or agency, Schedule II drugs may be dispensed upon oral prescription of a practitioner, reduced promptly to writing and filed by the pharmacy. Prescription shall be retained in conformity with the requirements of section three hundred six of this article. No prescription for a Schedule II substance may be refilled. (c) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in Schedule III or IV, which is a prescription drug as determined under appropriate state or federal statute, shall not be dispensed without a lawful prescription of a practitioner. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times unless renewed by the practitioner. (d) (1) A controlled substance included in Schedule V shall not be distributed or dispensed other than for a medicinal purpose: Provided, That buprenorphine shall be dispensed only by prescription pursuant to subsections (a), (b) and (c) of this section: Provided, however, That the controlled substances included in subsection (e), section two hundred twelve, article two of this chapter shall be dispensed, sold or distributed only by a physician, in a pharmacy by a pharmacist or pharmacy technician, or health care professional. (2) If the substance described in subsection (e), section two hundred twelve, article two of this chapter is dispensed, sold or distributed in a pharmacy: (A) The substance shall be dispensed, sold or distributed only by a pharmacist or a pharmacy technician; and (B) Any person purchasing, receiving or otherwise acquiring any such substance shall produce a photographic identification issued by a state or federal governmental entity reflecting his or her date of birth.”

[W. VA. CODE R. § 60A-3-308.](#)

# WISCONSIN





## WISCONSIN

### What is the definition of “telemedicine” or “telehealth”?

“Telemedicine” does not appear to be generally defined by Wisconsin’s Medical Practice Act.

However, for purposes of the Wisconsin Medicaid program, the following definition applies:

“Telehealth” is a service provided from a remote location using a combination of interactive video, audio, and externally acquired images through a networking environment between an individual at an originating site and a provider at a remote location with the service being of sufficient audio and visual fidelity and clarity as to be functionally equivalent to face-to-face contact. “Telehealth” does not include telephone conversations or Internet-based communications between providers or between providers and individuals.

[WIS. STAT. § 49.45\(29w\).](#)

### What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?

None identified.

## PSYCHIATRISTS

### What is the regulatory body in the state that governs the practice of psychiatry?

[Wisconsin Medical Examining Board](#)

### What are the restrictions on the scope of practice for psychiatrists 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)?

Yes, a license issued by the Wisconsin Medical Examining Board is required, with limited exceptions.

The Wisconsin Medical Practice Act’s licensure requirement does not apply to “[a]ctual consultation or demonstration by licensed physicians or perfusionists or certified respiratory care practitioners of other states or countries with licensed physicians or perfusionists or certified respiratory care practitioners of [Wisconsin].”

[WIS. STAT. § 448.03\(2\)\(d\).](#)

### What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.



## WISCONSIN

**Does a psychiatrist have prescribing authority?  
If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?**

Yes.

No specific conditions/limitations for prescribing via telehealth identified.

**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.

### PSYCHOLOGISTS

**What is the regulatory body in the state that governs the practice of psychology?**

[Wisconsin Psychology Examining Board](#)

**What are the restrictions on the scope of practice for psychologists 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)?**

Yes, a license issued by the Wisconsin Psychology Examining Board is required, with limited exceptions.

For example, “[t]here is a temporary practice provision in Wisconsin statute that allows psychologists licensed in other jurisdictions to practice on a temporary basis in Wisconsin. For temporary practice to be allowed, the psychologist must have equivalent or greater license requirements in the jurisdiction of origin. The Wisconsin Board of Psychologists interprets this as at least 2 years of supervised practice (at least one postdoctoral), a Ph D in psychology and passage of the EPPP exam. If practice is going to exceed 20 days the board must be notified, and the psychologist may practice for up to 60 days in a year.”

[Wisconsin Psychology Examining Board, General Position Statements \(rev. Sept. 9, 2013\); see also WIS. STAT. § 455.03.](#)

“The following apply to the temporary practice of psychology by a psychologist who is licensed or certified by a similar examining board of another state or territory of the United States or of a foreign country or province who offers services as a psychologist in this state under s. 455.03, Stats.

- (1) Any portion of a calendar day in which the psychologist provides services in this state is considered one working day.
- (2) *A psychologist provides psychological services in this state whenever the patient or client is located in this state, regardless of whether the psychologist is temporarily located in this state or is providing services by electronic or telephonic means from the state where the psychologist is licensed*” [emphasis added].

[WIS. ADMIN. CODE PSY. 2.14\(1\).](#)



## WISCONSIN

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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.

### SOCIAL WORKERS

**What is the regulatory body in the state that governs the practice of social work?**

[Wisconsin Marriage & Family Therapy, Professional Counseling & Social Work Examining 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)?**

Yes, a license issued by the Wisconsin Marriage & Family Therapy, Professional Counseling & Social Work Examining Board appears to be required for two reasons:

First, the position statement detailed below with respect to counselors provides that Wisconsin licensure is required for services provided by counselors via telehealth. Given that the same board governs counselors and social workers, the same requirement likely applies to social workers.

Second, in the statutory section governing marriage and family therapy, counseling, and social work practice, there is a specific exception from the general licensure requirement for those providing “a consultation or demonstration with an individual licensed under this chapter if the person providing the consultation or demonstration is licensed to practice marriage and family therapy, professional counseling, or clinical social work in another state or territory of the United States.” Based on the limited scope of this exception, it appears that Wisconsin licensure would generally be required in order to provide social work services via telehealth.



## WISCONSIN

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.

Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?

No.

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.

### COUNSELORS

What is the regulatory body in the state that governs the practice of counseling?

[Wisconsin Marriage & Family Therapy, Professional Counseling & Social Work Examining Board](#)

What are the restrictions on the scope of practice for counselors 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)?

Yes, a license issued by the Wisconsin Marriage & Family Therapy, Professional Counseling & Social Work Examining Board is required.

The following Q&A comes from a Board position statement:

**Q:** “Are licensed counselors from other states able to provide distance counseling to clients in Wisconsin?”

**A:** “The practice protections provided in s. 455 and s.457 require Wisconsin licensure for those providing services in Wisconsin (including telephonically). Therefore, unless a therapist or counselor holds a Wisconsin license, they would be unable to practice in the state.”

[Wisconsin Marriage & Family Therapy, Professional Counseling & Social Work Examining Board, \*Professional Counselor Position Statements\* \(rev. Dec. 18, 2013\).](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

None identified.



## WISCONSIN

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

### MARRIAGE/FAMILY THERAPISTS

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Wisconsin Marriage & Family Therapy, Professional Counseling & Social Work Examining Board](#)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

Yes, a license issued by the Wisconsin Marriage & Family Therapy, Professional Counseling & Social Work Examining Board appears to be required for two reasons:

First, the position statement detailed above with respect to counselors dictates that Wisconsin licensure is required for services provided by counselors via telehealth. Given that the same board governs counselors and marriage and family therapists, the same requirement likely applies to marriage and family therapists.

Second, in the statutory section governing marriage and family therapy, counseling and social work practice, there is a specific exception from the general licensure requirement for those providing “a consultation or demonstration with an individual licensed under this chapter if the person providing the consultation or demonstration is licensed to practice marriage and family therapy, professional counseling, or clinical social work in another state or territory of the United States.” Based on the limited scope of this exception, it appears that Wisconsin licensure would generally be required in order to provide marriage and family therapy services via telehealth.

**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.



## WISCONSIN

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

### ADVANCED PRACTICE REGISTERED NURSES (APRNs)

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Wisconsin Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs 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)?**

Yes, a license issued by the Wisconsin Board of Nursing is specifically required for nurses engaged in telenursing.

Although no guidance was identified regarding licensure requirements for APRNs practicing via telehealth generally, based on the licensure requirements for telenursing (described below), Wisconsin licensure also would likely be required for general telehealth practice by APRNs.

Wisconsin defines an “advanced practice nurse” to mean a registered nurse who meets certain additional qualifications. [WIS. ADMIN. CODE N. 8.02](#). As such, all references to “nurses” within the statutes, regulations, and other guidance cited in this section also apply to APRNs.

A Wisconsin Board of Nursing position statement provides the following: “Nursing practiced over the phone is considered the practice of nursing in Wisconsin, and in order to conduct these activities, a Wisconsin license or a multi-state compact license is necessary. The act of interstate tele-nursing is not allowed in Wisconsin, unless a nurse holds an appropriate multi-state license. Ch. N. 5.03, Wis. Admin. Code.”

[Wisconsin Board of Nursing, \*Board of Nursing Position Statements\* \(rev. Sept. 12, 2013\).](#)



## WISCONSIN

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority?**

**If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

Yes, provided an APRN obtains a certificate to practice as an advanced practice nurse prescriber and complies with all applicable requirements (see [WIS. ADMIN. CODE N. 8.01 through 8.10](#)).

No specific conditions/limits regarding APRNs prescribing via telehealth were identified.

**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.

### PRIVACY/CONFIDENTIALITY

**Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?**

None identified.

### MINORS

**What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?**

None identified.

### FOLLOW-UP CARE

**What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?**

None identified.



## WISCONSIN

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?

None identified.

### 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?

No.

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

None identified.

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Yes.

Mental health services provided through telehealth (see the first row of this chart for the definition of “telehealth” under the state Medicaid statute) are reimbursable by the Wisconsin Medical Assistance program if the provider of the service satisfies all of the following criteria:

- “The provider is a certified provider of mental health services under Medical Assistance in this state and is an agency that is certified by the department as an emergency mental health service program, a comprehensive community services program, a mental health day treatment services program for children, a program organized under s. 46.23, 51.42, or 51.437, an outpatient psychotherapy clinic, or a community support program or that is certified by the department to perform a community substance abuse prevention and treatment service, except for narcotic treatment service for opiate addiction.”
- “The provider and the individual providing the service comply with all Medical Assistance coverage policies and standards established by the department, rules, and federal statutes and regulations for each particular mental health service provided.”
- “The provider is certified for telehealth by the department.”
- “The individual who is providing the service is currently licensed, certified, or registered in his or her profession in this state and is in good standing with the applicable examining board in this state for that individual’s profession.”
- “The provider is located in the United States. The provider is not required to be located in this state.”

[WIS. STAT. § 49.45\(29w\).](#)

The Wisconsin Medicaid program’s provider manual defines “telemedicine services” as “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



## WISCONSIN

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

face-to-face contact. Telemedicine services do not include telephone conversations or Internet-based communication between providers or between providers and members.”

The following services may be provided through telemedicine:

- Office or other outpatient services (CPT procedure codes 99201-99205, 99211-99215)
- Office or other outpatient consultations (CPT codes 99241-99245)
- Initial inpatient consultations (CPT codes 99251-99255)
- Outpatient mental health services (CPT codes 90785, 90791-90792, 90832-90834, 90836-90840, 90845-90847, 90849, 90875, 90876, and 90887)
- Health and behavior assessment/intervention (CPT codes 96150-96152, 96154-96155)
- ESRD-related services (CPT codes 90951-90952, 90954-90958, 90960-90961)
- Outpatient substance abuse services (HCPCS codes H0022, H0047, T1006)

The provider types eligible for reimbursement for the above telehealth services include:

- Physicians and physician clinics
- Rural health centers
- Federally qualified health centers
- Physician assistants
- Nurse practitioners
- Nurse midwives
- Psychiatrists in private practice
- Ph.D. psychologists in private practice

Additional coverage criteria/conditions:

- “All applicable HIPAA (Health Information Portability and Accountability Act of 1996) confidentiality requirements apply to telemedicine encounters.”
- “Reimbursement . . . is subject to the same restrictions as face-to-face contacts (e.g., POS (place of service), allowable providers, multiple service limitations, PA (prior authorization)).”
- Claims for services performed via telemedicine must include HCPCS modifier “GT” (via interactive audio and video telecommunication systems) with the appropriate procedure code and must be submitted on the 837P transaction or 1500 Health Insurance Claim Form. “Reimbursement is the same for these services whether they are performed face-to-face or through telemedicine.”
- “Only one eligible provider may be reimbursed per member per DOS (dates of service) for a service provided through telemedicine unless it is medically necessary for the participation of more than one provider. Justification for the participation of the additional provider must be included in the member’s medical record.”
- “Separate services provided by separate specialists for the same member at different times on the same DOS may be reimbursed separately.”
- “Claims for services provided through telemedicine by ancillary providers should continue to be submitted under the supervising physician’s NPI (National Provider Identifier) using the lowest appropriate level office or outpatient visit procedure code or other appropriate CPT code for the service performed. These services must be provided under the direct on-site supervision of a physician and documented in the same manner as face-to-face services.



## WISCONSIN

### Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria? CONTINUED

Coverage is limited to procedure codes 99211 or 99212, as appropriate. “

- “Out-of-state providers, except border-status providers, are required to obtain PA before delivering telemedicine-based services to Wisconsin Medicaid members.”
- “All telemedicine services must be thoroughly documented in the member’s medical record in the same way as if [they] were performed as a face-to-face service.”
- “Providers may not require the use of telemedicine as a condition of treating the member. Providers should develop their own methods of informed consent verifying that the member agrees to receive services via telemedicine.”
- “An originating site may be reimbursed a facility fee. The originating site is a facility at which the member is located during the telemedicine-based service. It may be a physician’s office, a hospital outpatient department, an inpatient facility, or any other appropriate POS with the requisite equipment and staffing necessary to facilitate a telemedicine service. The originating site may not be an emergency room.”
- “‘Store and forward’ services are the asynchronous transmission of medical information to be reviewed at a later time by a physician or nurse practitioner at the distant site. These services are not separately reimbursable.”

[Wisconsin Forward Health, Wisconsin Medicaid Provider Manual, Physician, Topic #510: Telemedicine \(last viewed March 24, 2016\).](#)

## CONTROLLED SUBSTANCES

### How are “controlled substances” defined by the state?

Wisconsin defines the term “controlled substance” to mean a drug, substance or immediate precursor included in schedules I to V of subch. II.

[WIS. STAT. § 961.01\(4\).](#)

### What are the requirements/laws governing the prescribing of “controlled” substances”?

Under the Wisconsin Uniform Controlled Substances Act:

- “(1n) A pharmacy or physician approved under s. 961.34 (2) (a) or (b) may dispense cannabidiol in a form without a psychoactive effect as a treatment for a seizure disorder or any physician may provide an individual with a hard copy of a letter or other official documentation stating that the individual possesses cannabidiol to treat a seizure disorder if the cannabidiol is in a form without a psychoactive effect.
- (1r) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance included in schedule II may be dispensed without the written hard copy or electronic prescription of a practitioner.
- (2) In emergency situations, as defined by rule of the pharmacy examining board, schedule II drugs may be dispensed upon an oral prescription of a practitioner, reduced promptly to a written hard copy or electronic record and filed by the pharmacy. Prescriptions shall be retained in conformity with rules of the pharmacy examining board promulgated under s. 961.31. No prescription for a schedule II substance may be refilled.



## WISCONSIN

### What are the requirements/laws governing the prescribing of “controlled” substances”? CONTINUED

- (3) Except when dispensed directly by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV, which is a prescription drug, shall not be dispensed without a written, oral or electronic prescription of a practitioner. The prescription shall not be filled or refilled except as designated on the prescription and in any case not more than 6 months after the date thereof, nor may it be refilled more than 5 times, unless renewed by the practitioner.
- (4) A substance included in schedule V may be distributed or dispensed only for a medical purpose, including medical treatment or authorized research [(Note: In this section, “medical treatment” includes dispensing or administering a narcotic drug for pain, including intractable pain.)]
- (4g) A practitioner may dispense or deliver a controlled substance to or for an individual or animal only for medical treatment or authorized research in the ordinary course of that practitioner’s profession.
- (4r) A pharmacist is immune from any civil or criminal liability and from discipline under s. 450.10 for any act taken by the pharmacist in reliance on a reasonable belief that an order purporting to be a prescription was issued by a practitioner in the usual course of professional treatment or in authorized research.
- (5) No practitioner shall prescribe, orally, electronically or in writing, or take without a prescription a controlled substance included in schedule I, II, III or IV for the practitioner’s own personal use.”

With respect to controlled substance prescribing by APRNs:

- “(1) An advanced practice nurse who is certified under s. 441.16 may prescribe controlled substances only as permitted by the rules promulgated under s. 441.16 (3).
- (2) An advanced practice nurse certified under s. 441.16 shall include with each prescription order the advanced practice nurse prescriber certification number issued to him or her by the board of nursing.
- (3) An advanced practice nurse certified under s. 441.16 may dispense a controlled substance only by prescribing or administering the controlled substance or as otherwise permitted by the rules promulgated under s. 441.16 (3).”

[WIS. STAT. § 961.38.](#)

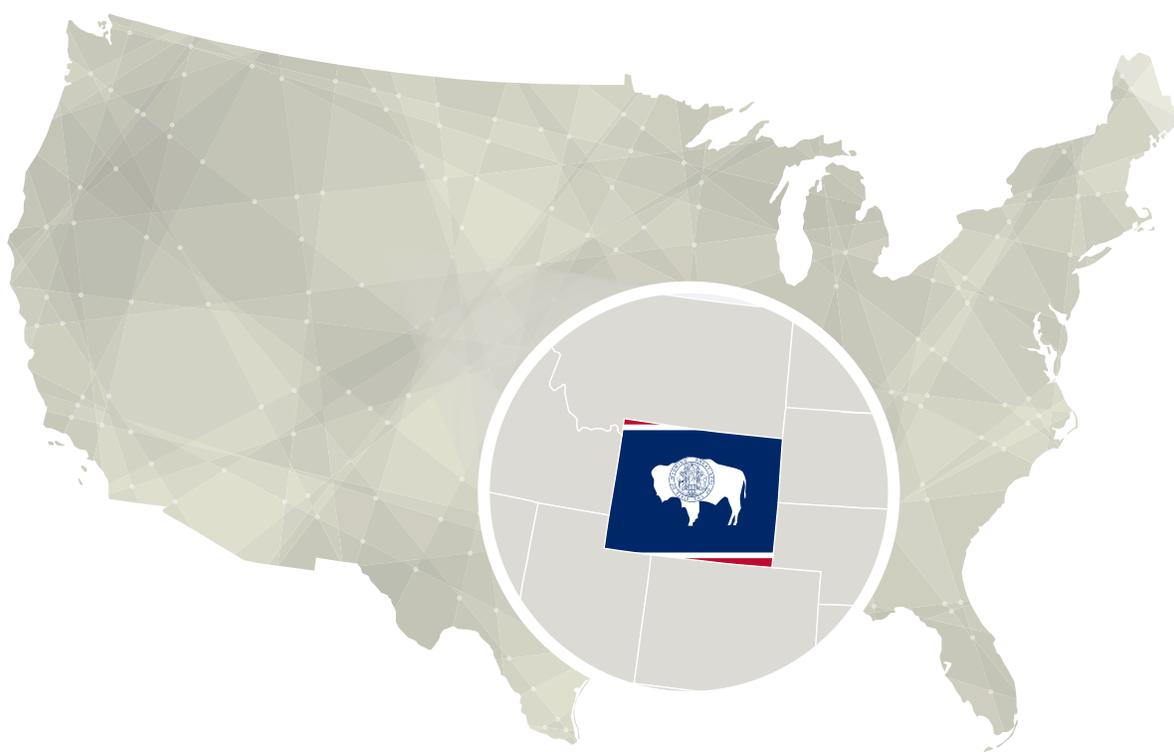
The Wisconsin Pharmacy Board’s regulations governing controlled substances require the following:

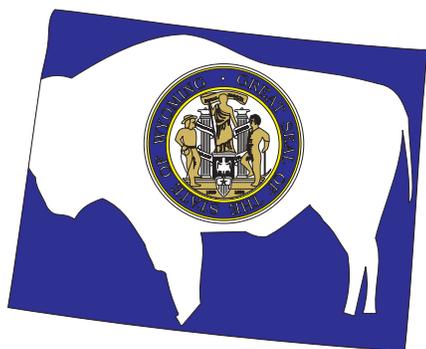
“(1) Prescription orders for controlled substances shall be issued for a legitimate medical purpose by individual practitioners acting in the usual course of professional practice. Responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who dispenses the prescription. An order purporting to be a prescription order not issued in the usual course of professional treatment or in legitimate and authorized research is not a prescription order within the meaning and intent of ss. 450.01 (21) and 961.38, Stats. The person knowingly dispensing pursuant to such a purported order, as well as the person issuing it, shall be subject to the penalties provided for violation of the provision of law relating to controlled substances.

(2) A prescription order issued by a practitioner to obtain controlled substances for the purpose of general dispensing or administration to patients by the practitioner is not valid.”

[WIS. ADMIN. CODE PHAR. 8.04](#) (see full text of regulation for additional requirements).

# WYOMING





## 50-State Survey of Telemental/Telebehavioral Health

**WYOMING****What is the definition of “telemedicine” or “telehealth”?**

Wyoming statutes define “telemedicine” as “the practice of medicine by electronic communication or other means from a physician in a location to a patient in another location, with or without an intervening health care provider.”

[WYO. STAT. ANN. § 33-26-102.](#)

“Telehealth is an electronic real time synchronous audio-visual contact between a patient and healthcare practitioner relating to the healthcare diagnosis or treatment of the patient. The patient is in one location, called the hub site, with specialized equipment including a video camera and monitor, and with a referring/presenting provider. The healthcare practitioner, or consulting provider, is at another location, called the spoke site, with specialized equipment. The practitioner and patient interact as if they were having a face-to-face service. . . .”

[Wyoming Department of Health, Public Health Insurance Program, EqualityCare General Provider Information, sec. 6.24 \(rev. May 2011\).](#)

**What is the definition of “telemental,” “telebehavioral,” and “telepsychiatry”?**

None identified.

**PSYCHIATRISTS****What is the regulatory body in the state that governs the practice of psychiatry?**

[Wyoming Board of Medicine](#)

**What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?**

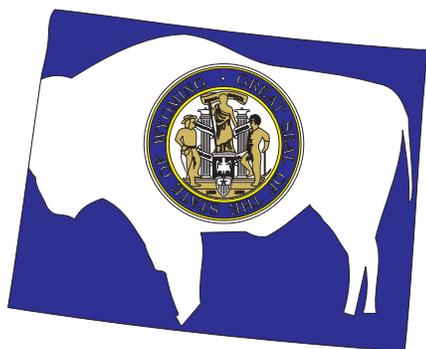
None identified.

**Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?**

None identified.

However, a license issued by the Wyoming Board of Medicine is generally required to practice as a psychiatrist in Wyoming. “Physicians residing in and currently licensed in good standing to practice medicine in another state or country brought into this state for consultation by a physician licensed to practice medicine in this state may practice medicine without first obtaining a Wyoming license for a total of not more than twelve (12) days in any fifty-two (52) week period and therefore, are exempt from the licensure requirements . . . consults of longer duration . . . require written advance approval of a majority of the Board officers. . . . For purposes of this subsection . . . ‘brought into this state’ means having patient contact and establishing a physician-patient relationship, either by the physician’s physical presence with the patient or through telemedicine.”

[Wyoming Board of Medicine Rules & Regulations, ch. 1, sec. 7.](#)



## 50-State Survey of Telemental/Telebehavioral Health

**WYOMING****What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

However, the Board may revoke a license from someone who engages in unprofessional or dishonorable conduct, including “in emergency situations where the consent of the patient or the patient’s legally designated representative cannot be reasonably obtained, assisting in the care or treatment of a patient without the consent of the patient, the attending physician or the patient’s legal representative.”

[WYO. STAT. ANN. § 33-26-402.](#)

**Does a psychiatrist have prescribing authority?****If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?**

Yes.

“Initially prescribing any controlled substance specified in W.S. 35-7-1016 through 35-7-1022 for any person through the Internet, the World Wide Web or a similar proprietary or common carrier electronic system absent a documented physician-patient relationship” is subject to review, discipline, and consequences to the individual’s professional license.

“‘Physician-Patient Relationship’ means a relationship between a licensee and any person formed for the purpose of the licensee providing medical diagnosis or treatment to the person, whether or not for compensation.”

[WYO. STAT. ANN. § 33-26-402.](#)

**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?**

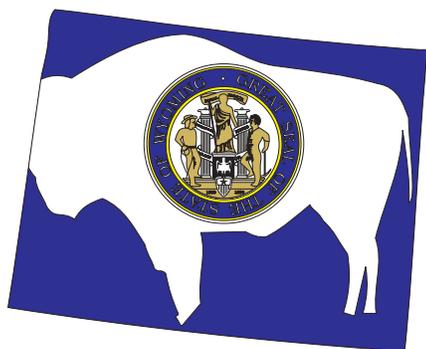
None identified.

**PSYCHOLOGISTS****What is the regulatory body in the state that governs the practice of psychology?**

[Wyoming Board of Psychology](#)

**What are the restrictions on the scope of practice for psychologists practicing via telemedicine/telehealth?**

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**WYOMING**

**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 Wyoming State Board of Psychology is generally required to practice as a psychologist in Wyoming.

[WYO. STAT. ANN. § 33-27-115.](#)

“The board may issue a temporary license to an applicant who is licensed or certified by a board of psychology of another United States state or territory, or of a foreign country or province whose standards are equal to or exceed the requirements for licensure as a psychologist in this state. A temporary licensee may offer services as a psychologist in this state for not more than thirty (30) working days in any year without holding a permanent license issued under this act. The temporary licensee shall report the nature and extent of the licensee’s practice in this state to the board if that practice exceeds twenty (20) working days in any one (1) calendar year.”

[WYO. STAT. ANN. § 33-27-117\(e\).](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a psychologist have prescribing authority? If so, under what conditions/limits may a psychologist prescribe via telemedicine/telehealth?**

No.

**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.

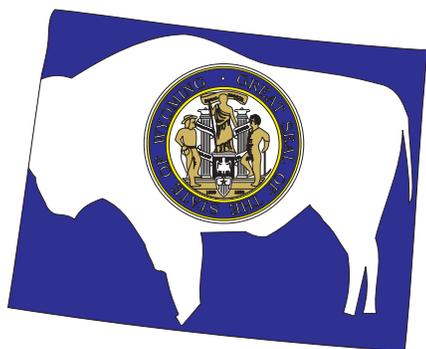
**SOCIAL WORKERS**

**What is the regulatory body in the state that governs the practice of social work?**

[Wyoming Mental Health Professional Licensing Board](#)

**What are the restrictions on the scope of practice for social workers practicing via telemedicine/telehealth?**

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**WYOMING**

**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 Wyoming Mental Health Professionals Licensing Board is generally required to practice as a social worker in Wyoming.

“Any individual holding a license in good standing to engage in the practice of professional counseling, clinical social work, marriage and family therapy or addictions therapy under the laws of another state having licensure requirements substantially similar to those required by this act may, upon approval of the board, be issued a license to practice in this state.”

[WYO. STAT. ANN. § 33-38-108.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a social worker have prescribing authority? If so, under what conditions/limits may a social worker prescribe via telemedicine/telehealth?**

No.

**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.

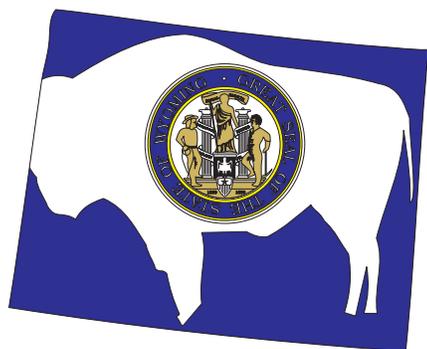
**COUNSELORS**

**What is the regulatory body in the state that governs the practice of counseling?**

[Wyoming Mental Health Professions Licensing Board](#)

**What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?**

None identified.



50-State Survey of Telemental/Telebehavioral Health

**WYOMING**

**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 Wyoming Mental Health Professionals Licensing Board is generally required to practice as a counselor in Wyoming.

“Any individual holding a license in good standing to engage in the practice of professional counseling, clinical social work, marriage and family therapy or addictions therapy under the laws of another state having licensure requirements substantially similar to those required by this act may, upon approval of the board, be issued a license to practice in this state.”

[WYO. STAT. ANN. § 33-38-108.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does a counselor have prescribing authority?  
If so, under what conditions/limits may a counselor prescribe via telemedicine/telehealth?**

No.

**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.

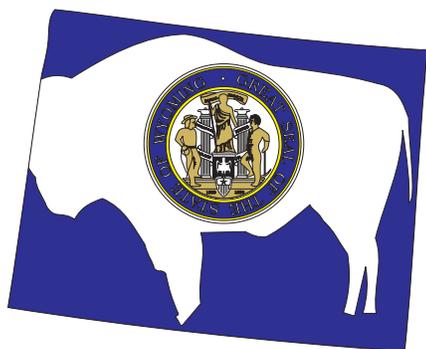
**MARRIAGE/FAMILY  
THERAPISTS**

**What is the regulatory body in the state that governs the practice of marriage/family therapy?**

[Wyoming Mental Health Professions Licensing Board](#)

**What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?**

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**WYOMING**

**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 Wyoming Mental Health Professionals Licensing Board is generally required to practice as a marriage/family therapist in Wyoming.

“Any individual holding a license in good standing to engage in the practice of professional counseling, clinical social work, marriage and family therapy or addictions therapy under the laws of another state having licensure requirements substantially similar to those required by this act may, upon approval of the board, be issued a license to practice in this state.”

[WYO. STAT. ANN. § 33-38-108.](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/tele-**

None identified.

**Does a marriage/family therapist have prescribing authority? If so, under what conditions/limits may a marriage/family therapist prescribe via telemedicine/telehealth?**

No.

**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.

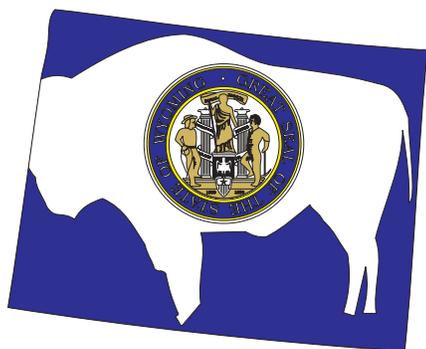
**ADVANCED PRACTICE  
REGISTERED NURSES (APRNs)**

**What is the regulatory body in the state that governs the practice of advanced practice nursing?**

[Wyoming State Board of Nursing](#)

**What are the restrictions on the scope of practice for APRNs practicing via telemedicine/telehealth?**

None identified.



## 50-State Survey of Telemental/Telebehavioral Health

**WYOMING**

**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 Wyoming State Board of Nursing is generally required to practice as an APRN in Wyoming.

“The board may issue a temporary permit to practice nursing to a registered nurse or licensed practical nurse who is not seeking licensure by endorsement and who is currently licensed in good standing in another jurisdiction, territory or possession of the United States. The period for a temporary permit shall not exceed ninety (90) days, provided the applicant submits a written application for licensure by endorsement in a form and substance satisfactory to the board. A temporary permit for such a request shall be issued only one (1) time.”

[WYO. STAT. ANN. § 33-21-132](#)

“Nursing practice occurs at the location in which the client is located at the time nursing service is rendered, regardless of the location of the nurse providing the service. If a nurse is providing any services defined in the Nursing Practice Act via telephone or any other electronic means to a client residing in Wyoming, the nurse must be licensed in the state of Wyoming.”

[Wyoming State Board of Nursing, Advisory Opinion – Telephonic & Electronic Nursing \(Oct. 2014\).](#)

**What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?**

None identified.

**Does an APRN have prescribing authority?  
If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?**

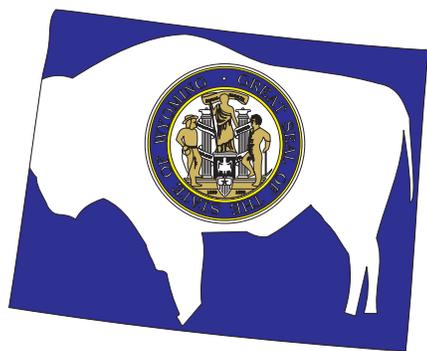
Yes.

No telehealth-specific conditions/limits identified.

**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?**

“Nursing services include, but are not limited to telephonic case management, electronically sending and receiving patient health data, telephone triage services, electronically initiating and transmitting therapeutic interventions and regimens, education, counseling, outcome evaluation, and disease monitoring.”

[Wyoming State Board of Nursing, Advisory Opinion – Telephonic & Electronic Nursing \(Oct. 2014\).](#)



## WYOMING

### PRIVACY/CONFIDENTIALITY

#### What are the specific privacy/confidentiality requirements involving mental health records?

“A person licensed or certified . . . shall not disclose without consent of the client any communication made by the client to the licensed or certified professional in the course of professional practice, more may any employee of the licensed or certified professional reveal the information without the consent of the employer or client except as indicated by law.”

[WYO. STAT. ANN. § 33-38-109.](#)

#### Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

None identified.

### MINORS

#### What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?

None identified.

### FOLLOW-UP CARE

#### What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

None identified.

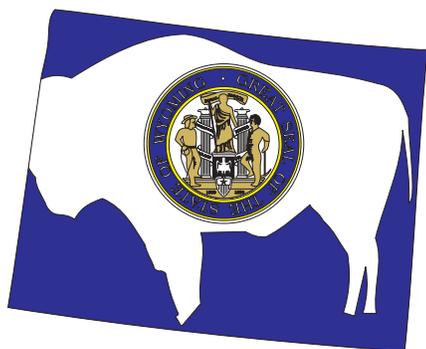
#### Are there requirements regarding the time frame in which a follow up face-to-face encounter would be required in a telemental/telebehavioral/telepsychiatric health setting? If so, what are those requirements?

None identified.

### 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.



## 50-State Survey of Telemental/Telebehavioral Health

**WYOMING**

**Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?**

None identified.

**Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?**

Yes.

Wyoming Medicaid covers and provides reimbursement for exams performed via a real-time, interactive audio and video telecommunications system. The patient must be able to see and interact with the off-site practitioner during the exam. A medical professional is not required to be present with the client at the originating site unless medically indicated.

Eligible providers:

- Physicians
- Advanced practice nurses with a specialty of psychiatry/mental health
- Physician's assistant (billed under the supervising physician)
- Psychologists and neuropsychologists
- Mental health professionals (LCSW, LPC, LMFT, LAT)
- Speech therapist

Telemedicine does not include telephone conversations, emails, or faxes between practitioners and patients.

[Wyoming Department of Health, Public Health Insurance Program, EqualityCare General Provider Information, sec. 6.24 \(rev. May 2011\).](#)

**CONTROLLED SUBSTANCES**

**How are “controlled substances” defined by the state?**

Wyoming statutes define “controlled substance” as “a drug, substance, or immediate precursor in Schedules I through VI.”

[WYO. STAT. ANN. § 35-7-1002.](#)

**What are the requirements/laws governing the prescribing of “controlled” substances?”**

“It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice. . . .”

[WYO. STAT. ANN. § 35-7-1031\(c\).](#)

## 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](#).**