



50-state survey: Establishment of a patient-physician relationship via telemedicine

The following compilation of state laws may be useful to state and national specialty medical societies in advocacy related to efforts to telemedicine laws or regulations that define establishment of a patient-physician relationship for purposes of treatment telemedicine.

All states allow a physician to establish a relationship with a new patient via telemedicine, though state laws differ. A few states include some caveats to that general rule, restricting the setting in which a patient must be located in order to establish the patient-physician relationship (e.g. limiting to established medical site), or the modalities that can be used to establish such a relationship (e.g. telephone versus two-way audio and video technology). More details on each state’s laws and regulations are below.

The AMA believes that a valid patient-physician relationship must be established before the provision of telemedicine services, through: (i) A face-to-face examination, if a face-to-face encounter would otherwise be required in the provision of the same service not delivered via telemedicine; or (ii) A consultation with another physician who has an ongoing patient-physician relationship with the patient. The physician who has established a valid physician-patient relationship must agree to supervise the patient’s care; or (iii) Meeting standards of establishing a patient-physician relationship included as part of evidence-based clinical practice guidelines on telemedicine developed by major medical specialty societies, such as those of radiology and pathology. Exceptions include on-call, cross coverage situations; emergency medical treatment; and other exceptions that become recognized as meeting or improving the standard of care. If a medical home does not exist, telemedicine providers should facilitate the identification of medical homes and treating physicians where in-person services can be delivered in coordination with the telemedicine services. (Policy H-480.948, Coverage of and Payment for Telemedicine.)

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| Alabama | AAC 540-X-15-.09 | Only at established medical site (& other exceptions) | Separate rules for telemedicine provided at a medical site vs non-medical site. Telehealth Medical Services Provided at an Established Medical Site <ul style="list-style-type: none"> Telehealth medical services provided at an established medical site may be used for all patient visits, including initial evaluations to establish a provider-patient relationship. |

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| | <p>AAC 540-X-15-10</p> <p>AAC 540-X-15-11</p> | <p>including mental health, referral)</p> | <ul style="list-style-type: none"> ▪ For <i>new conditions</i>, a patient site presenter must be available on site at the established medical site to assist with the provision of care. ▪ The distant site provider has discretion to determine if a patient site presenter is necessary for follow-up evaluation or treatment of a previously diagnosed condition. ▪ 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 himself/herself or others. <p>Telehealth Medical Services Provided at a Site Other than an Established Medical Site</p> <ul style="list-style-type: none"> ▪ A distant site provider who provides telehealth medical services at a site other than an established medical site for a patient’s <i>previously diagnosed condition</i> must either: <ul style="list-style-type: none"> • See the patient one time in a <i>face-to-face visit</i> before providing telehealth medical care; or • See the patient without an initial face-to-face visit, provided the patient has received an <i>in-person evaluation by another provider</i> who has referred the patient for additional care, and the referral is documented in the medical record. ▪ A patient site presenter is not required for a <i>pre-existing condition previously diagnosed</i> by a provider through a face-to-face visit. ▪ If the only services provided are related to <i>mental health</i>, a patient site presenter is not required except in cases where the patient may be a danger to himself/herself or others. ▪ Each patient must be seen for an <i>in-person evaluation at least once a year</i>. ▪ Telehealth medical services may not be used to treat non-malignant pain with scheduled drugs, with the exception of patients who are enrolled in a qualified multidisciplinary hospice or a palliative care program. ▪ A distant site provider may treat an established patient’s <i>new symptoms</i> which are unrelated to the patient’s pre-existing condition, provided that the patient is <i>advised to see a provider in a face-to-face visit within 72 hours</i>. A distant site provider may not provide continuing telehealth medical services for these new symptoms to a patient who is not seen by a provider in a face-to-face visit within 72 hours. <p>Evaluation of the patient</p> <p>A distant site provider who utilizes telehealth medical services must ensure that a provider-patient relationship is established. At a minimum, this includes the following:</p> <ul style="list-style-type: none"> ▪ Establishing that the person requesting the treatment is in fact the person he/she claims to be ▪ Establishing a diagnosis through the use of acceptable medical practices, including patient history, an appropriate physical examination, and indicated diagnostic studies |

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| | | | <ul style="list-style-type: none"> ▪ Discussing with the patient the diagnosis, the evidence for it, and the risks and benefits of various treatment options; and ▪ Ensuring the availability of appropriate coverage of the patient for follow-up care. <p>An online or telephonic evaluation solely by questionnaire does not constitute an acceptable standard of care.</p> <p>Definitions</p> <p><i>Established medical site:</i> A location where a patient can receive care, where there is a patient site presenter and sufficient technology to allow for an adequate examination (not the patient’s home, except in case of emergency).</p> <p><i>Face-to-face visit:</i> Patient and provider are at the same physical location OR where a patient is located at an established medical site.</p> <p><i>In-person evaluation:</i> Patient and provider are at the same physical location.</p> |
| Alaska | <p>AS 08.64.01(6)</p> <p>AS 08.64.364</p> | Yes | <p>The medical board shall adopt regulations that establish guidelines for a physician who is rendering a diagnosis, providing treatment, or prescribing, dispensing, or administering a prescription drug to a person without conducting a physical examination under AS 08.64.364; the guidelines must include a nationally recognized model policy for standards of care of a patient who is at a different location than the physician.</p> <p>(a) The medical board cannot impose disciplinary sanctions for rendering a diagnosis, providing treatment, or prescribing, dispensing, or administering a prescription drug that is not a controlled substance to a person without conducting a physical examination if: (1) The physician is located within the state and a physician or provider is available for follow up care; or (2) The physician requests that the person consent to sending a copy of all records of the encounter to the person's primary care provider if the prescribing physician is not the person's primary care provider, and, if the patient consents, the physician sends the records to the person's primary care provider.</p> <p>(c) The board may not impose disciplinary sanctions on a physician for prescribing, dispensing, or administering a prescription drug that is a controlled substance or botulinum toxin if the requirements under (a) of this section are met and the physician prescribes, dispenses, or administers the controlled substance or botulinum toxin when an appropriate licensed health care provider is present with the patient to assist the physician with examination, diagnosis, and treatment.</p> |

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| | 12 AAC 40.967(27) | | <p>(d) Notwithstanding (a) and (c) of this section, a physician may <u>not</u> (1) prescribe, dispense, or administer an abortion-inducing drug under (a) of this section unless the physician complies with AS 18.16.010; or (2) prescribe, dispense, or administer a prescription drug in response to an Internet questionnaire or electronic mail message to a person with whom the physician does not have a prior physician-patient relationship.</p> <p>Unprofessional conduct</p> <p>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.</p> |
| Arizona | ARS 32.1401(27)(ss) and (ww), ARS 32-1854(48) | Yes | <p>27. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere: (ss) 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. <i>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</i>, unless the examination is for the purpose of obtaining a written certification from the physician for the purposes of title 36, chapter 28.1. This subdivision does not apply to:</p> <ul style="list-style-type: none"> (i) A physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional or provides a consultation requested by the patient's regular treating licensed health care professional. (ii) Emergency medical situations as defined in section 41-1831. (iii) Prescriptions written to prepare a patient for a medical examination. (iv) Prescriptions written or prescription medications issued for use by a county or tribal public health department for immunization programs or emergency treatment or in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For the purposes of this item, "bioterrorism" has the same meaning prescribed in section 36-781. (v) Prescriptions written or antimicrobials dispensed to a contact as defined in section 36-661 who is believed to have had significant exposure risk as defined in section 36-661 with another person who has been diagnosed with a communicable disease as defined in section 36-661 by the prescribing or dispensing physician. (vi) Prescriptions written or prescription medications issued for administration of immunizations or vaccines listed in the United States centers for disease control and prevention's recommended immunization schedule to a household member of a patient. (vii) Prescriptions for epinephrine auto-injectors written or dispensed for a school district or charter school to be stocked for emergency use pursuant to section 15-157 or for an authorized entity to be stocked pursuant to section 36-2226.01. (viii) Prescriptions written by a licensee through a telemedicine program that is covered by the policies and procedures adopted by the administrator of a hospital or outpatient treatment center. |

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| | <p>AMB Substantive Policy Statement 12</p> | | <p>(ix) Prescriptions for naloxone hydrochloride or any other opioid antagonist approved by the United States food and drug administration that are written or dispensed for use pursuant to section 36-2228 or 36-2266.</p> <p>Rules on internet prescribing</p> <p>The medical board’s rules on internet prescribing provide that prior to providing treatment, including issuing prescriptions, electronically or otherwise, a physician must document a patient evaluation, including taking a history and conducting a physical examination adequate to establish the diagnoses and identify underlying conditions and/or contraindications to the treatment recommended or provided. There are exceptions to this requirement for covering physicians, emergencies, prescriptions written to prepare a patient for an examination and prescribing or dispensing for immunization programs.</p> <p>Definitions</p> <p><i>Telemedicine</i> – 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 provider for diagnostic or treatment consultation).</p> <p>Miscellaneous</p> <p>The Arizona Board of Osteopathic Examiners’ telemedicine policy (ARS 36-3602) does not address formation of the patient-physician relationship.</p> <p>In addition to the requirements of the standard of care, ARS 2-1401(27)(ss), makes it an act of unprofessional conduct for a physician to prescribe, dispense or furnish a prescription medication or prescription-only device to a person unless the physician first conducts a physical examination of that person or has previously established a physician-patient relationship. How the examination is conducted will depend on the patient and condition being treated. What constitutes an adequate work-up depends on the facts of the specific situation; however, an on-line questionnaire cannot meet these minimum requirements.</p> |
| <p>Arkansas</p> | <p>ACA 17-80-403</p> <p>ACA 17-80-117</p> | <p>Yes</p> | <p>A patient completing a medical history online and forwarding it to a physician is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology.</p> |

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| | AR Code 17-92-1003 | | <p>A physician may not use telemedicine to issue a prescription for a controlled substance under schedules II through V unless they have seen the patient in-person or a relationship exists through consultation or referral; on-call or cross coverage situations; or through an ongoing personal or professional relationship</p> <p>Without a prior and proper patient-provider relationship, providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult.</p> <p>Establishment of professional relationship (a)(1) 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 a professional relationship as defined in §17-80-402.</p> <p><i>[17-80-402 states: At minimum, a relationship established between a healthcare professional and a patient when:</i></p> <ul style="list-style-type: none"> <i>(i) 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;</i> <i>(ii) 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;</i> <i>(iii) 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;</i> <i>(iv) An on-call or cross-coverage arrangement exists with the patient's regular treating healthcare professional or another healthcare professional who has established a professional relationship with the patient;</i> <i>(v) 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</i> <i>(vi) 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;]</i> |

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| | ACA 17-80-404 | | <p>(2) The existence of a professional relationship is not required in the following circumstances: (A) Emergency situations where the life or health of the patient is in danger or imminent danger; or (B) Simply providing information of a generic nature, not meant to be specific to an individual patient.</p> <p>(b) If the establishment of the professional relationship is permitted via telemedicine under § 17-80-402(4)(A)(v) or § 17-80-402(4)(A)(vi), telemedicine may be used to establish the professional relationship only for situations in which the standard of care does not require an in-person encounter.</p> <p>(c) “Professional relationship” does not include a relationship between a healthcare professional and a patient established only by the following: (1) An internet questionnaire; (2) An email message; (3) Patient-generated medical history; (4) Audio-only communication, including without limitation interactive audio; (5) Text messaging; (6) A facsimile machine; or (7) Any combination thereof;</p> <p><i>Professional relationship</i> – At minimum, a relationship established between a healthcare professional and a patient when: (i) 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; (ii) 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; (iii) 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; (iv) An on-call or cross-coverage arrangement exists with the patient's regular treating healthcare professional or another healthcare professional who has established a professional relationship with the patient; (v) 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 (vi) 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;</p> |

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| | <p>ACA 17-80-405</p> <p>ACA 17-80-406</p> <p>ACA 17-80-407</p> <p>ACA 17-80-401</p> | | <p><i>Remote patient monitoring</i> – The use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a healthcare professional at a distant site for use in the treatment and management of medical conditions that require frequent monitoring;</p> <p><i>Store-and-forward technology</i> – The asynchronous transmission of a patient's medical information from a healthcare professional at an originating site to a healthcare professional at a distant site; and</p> <p><i>Telemedicine</i> – The use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient. “Telemedicine” includes store-and-forward technology and remote patient monitoring.</p> <p>Act 887 requires a pre-existing physician-patient relationship before a telemedicine encounter. The relationship may be established via an in-person exam, personally knowing the patient and their health status, in consultation with a referral by another health care provider who has a relationship with the patient or through an on-call or cross coverage arrangement with the patient’s regular treating provider.</p> |
| <p>California</p> | <p>Cal. Bus. & Prof. Code § 2290.5</p> <p>Cal. Bus. & Prof. Code § 2242.1(a)</p> <p>Cal. Bus. & Prof. Code § 4130-4135</p> | <p>Yes</p> | <p>Providers are prohibited from prescribing or dispensing dangerous drugs or dangerous devices on the Internet without an appropriate prior examination and medical indication.</p> <p>Remote dispensing site pharmacies are permitted to dispense or provide pharmaceutical care services in medically underserved areas. A supervising pharmacy must provide telepharmacy services to the remote dispensing site pharmacy and shall not be located greater than 150 road miles from the remote dispensing site pharmacy.</p> |

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| Colorado | <p>CMB policy 40-3</p> <p>CMB policy 40-27</p> | Yes | <p>Policy Statement Regarding the Provider-Patient Relationship</p> <p>The “Provider-Patient Relationship” as the mutual understanding, between a provider and patient, of the shared responsibility for the patient’s healthcare. The provider-patient relationship is established when:</p> <ul style="list-style-type: none"> ▪ The provider agrees to undertake diagnosis and treatment of the patient, and the patient, or a medical proxy for the patient, agrees to be treated- <i>whether or not there has been an in-person encounter</i> between the patient and the provider; and ▪ The provider: <ul style="list-style-type: none"> • Verifies and authenticates the patient’s identity; • Discloses his or her identity and applicable credential(s) to the patient; and • Obtains appropriate informed consent after any relevant disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telehealth technologies. <p>Guidelines for the Appropriate Use of Telehealth Technologies in the Practice of Medicine</p> <p>Where an existing provider-patient relationship is not present, a provider must take appropriate steps to establish a provider-patient relationship consistent with the guidelines identified in Board Policy 40-3. Provider-patient relationships may be established using telehealth technologies so long as the relationship is established in conformance with generally accepted standards of practice.</p> <p>Miscellaneous</p> <p>Law passed in 2015 states that Colorado will not require in-person contact between a patient and provider in order for covered services to be reimbursed.</p> <p>The state’s workers compensation statute allows establishment of a patient-physician relationship through two way live audio/video services</p> <p>An “appropriate personal physical examination” as required by this regulation to establish a bona fide physician-patient relationship for purposes of prescribing medical marijuana may not be performed by remote means, including telemedicine.</p> <p>Definitions</p> |

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| | | | <p><i>Telehealth</i> – A mode of delivery of healthcare 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. Telehealth does not include the delivery of health care services via telephone, facsimile machine or electronic mail.</p> <p><i>Practice of medicine</i> includes the delivery of telemedicine. It is within professional’s scope of practice to use advanced technology including, but not limited to, interactive audio, interactive video, or interactive data communication.</p> |
| Connecticut | Public Act 15-88 (2015) | Yes (Not prohibited) | <p>(b) (1) A telehealth provider shall only provide telehealth services to a patient when the telehealth provider: (A) Is 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's provider license number and contact information.</p> <p>(2) 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. If a patient later revokes such consent, the telehealth provider shall document the revocation in the patient's health record.</p> <p>(c) Notwithstanding the provisions of this section or title 20, no telehealth provider shall prescribe any schedule I, II or III controlled substance through the use of telehealth, except a schedule II or III controlled substance other than an opioid drug, as defined in section 20-14o, in a manner fully consistent with the Ryan Haight Online Pharmacy Consumer Protection Act, 21 USC 829(e), as amended from time to time, for the treatment of a person with a psychiatric disability or substance use disorder, as defined in section 17a-458, including, but not limited to, medication-assisted treatment. A telehealth provider using telehealth to prescribe a schedule II or III controlled substance pursuant to this subsection shall electronically submit the prescription pursuant to section 21a-249, as amended by this act.</p> <p>(d) Each telehealth provider shall, at the time of the initial telehealth interaction, 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</p> |

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| | | | <p>provider shall provide records of all telehealth interactions to the patient's primary care provider, in a timely manner, in accordance with the provisions of sections 20-7b to 20-7e, inclusive.</p> <p>(e) Any consent required under this section shall be obtained from the patient, or the patient's legal guardian, conservator or other authorized representative, as applicable.</p> <p>(f) The provision of telehealth services and health records maintained and disclosed as part of a telehealth interaction shall comply with the provisions of the Health Insurance Portability and Accountability Act of 1996 P.L. 104-191, as amended from time to time.</p> <p>(g) Nothing in this section shall prohibit: (1) A health care provider from providing on-call coverage pursuant to an agreement with another health care provider or such health care provider's professional entity or employer; (2) a health care provider from consulting with another health care provider concerning a patient's care; (3) orders of health care providers for hospital outpatients or inpatients; or (4) the use of telehealth for a hospital inpatient, including for the purpose of ordering any medication or treatment for such patient in accordance with Ryan Haight Online Pharmacy Consumer Protection Act, 21 USC 829(e), as amended from time to time. For purposes of this subsection, "health care provider" means a person or entity licensed or certified pursuant to chapter 370, 372, 373, 375, 376 to 376b, inclusive, 378, 379, 380, 381a, 383 to 383c, inclusive, 384b, 397a, 399 or 400j, or licensed or certified pursuant to chapter 368d or 384d.</p> <p>(h) No telehealth provider shall charge a facility fee for telehealth services.</p> <p>Definitions</p> <p><i>Telehealth</i> – 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.</p> |
| Delaware | 24 Del. Code 1769D | Yes | (a) Physicians may practice Telemedicine and Telehealth. Provided that Telemedicine shall not be utilized by a physician with respect to any patient in the absence of a physician-patient relationship, except for the instances in subsection (i). |

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| | DE Code, Title 16 S4744 | | <p>(b) 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:</p> <ol style="list-style-type: none"> (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); (3) 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 Section 5; (4) 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; (5) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and (6) ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care; and (7) providing a written visit summary to the patient. <p>(h) Physicians using telemedicine technologies to provide medical care to patients located in Delaware must, prior to a diagnosis and treatment, and only if a face-to-face encounter would otherwise be required in the provision of the same service not delivered via telemedicine, either provide: (1) an appropriate examination in-person, (2) have another Delaware-licensed practitioner at the originating site with the patient at the time of the diagnosis, (3) <i>the diagnosis must be based using both audio and visual communication</i>, or (4) 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.</p> <p>(i) After a physician-patient relationship is properly established in accordance with this section, subsequent treatment of the same patient with the same physician need not satisfy the limitations of this section.</p> <p>(j) Nothing in this section shall be construed to limit the practice of radiology or pathology.</p> <p>(i) Telemedicine may be practiced without a physician-patient relationship during:</p> <ol style="list-style-type: none"> (1) 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; (2) Furnishing of medical assistance by a physician 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 this state. |

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| | | | Pharmacists are prohibited from dispensing prescription drug orders through an Internet pharmacy if the pharmacist knows that the prescription order was issued solely on the basis of an Internet consultation or questionnaire, or medical history form submitted to an Internet pharmacy through an Internet site. |
| D.C. | <p data-bbox="486 594 626 683">DC Medical Board Policy No. 15-01</p> <p data-bbox="478 1097 634 1214">D.C. Law 20-26; D.C. Official Code 31-3861</p> | <p data-bbox="747 594 795 618">Yes</p> <p data-bbox="680 659 868 773">(Also allows relationship to be established over the phone)</p> | <p data-bbox="903 594 2588 683">Section 1.8 If a physician-patient relationship does not include prior in-person, face-to-face interaction with a patient, the physician shall incorporate <i>real-time auditory communications or real-time visual and auditory communications</i> to allow a free exchange of protected health information between the patient and the physician performing the patient evaluation.</p> <p data-bbox="903 716 1032 740">Definitions</p> <p data-bbox="903 773 1790 805"><i>Face-to-face</i> –Within the physical sight and presence of another person or persons.</p> <p data-bbox="903 837 2556 894"><i>Interpretive Services</i> – Official readings of images, tracings or specimens through telemedicine. Interpretive services include remote, real-time monitoring of a patient being cared for within a health care facility or home-based setting.</p> <p data-bbox="903 927 2454 984"><i>Physician-patient relationship</i> – 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.</p> <p data-bbox="903 1016 1943 1049"><i>Real-time</i> – Simultaneously or quickly enough to allow two or more individuals to communicate.</p> <p data-bbox="903 1081 2569 1170"><i>Telehealth</i> – The delivery of health care services, including services provided via synchronous interaction and asynchronous store-and-forward, through the use of interactive audio, video, or other electronic media used for the purpose of diagnosis, consultation, remote patient monitoring, or treatment. The term “telehealth” shall not include services delivered through audio-only telephones, electronic mail messages, or facsimile transmissions.</p> |
| Florida | | Yes | Standards for Telemedicine Practice |

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| | <p>Florida Admin. Code 64B8-9.0141</p> <p>Fla. Admin. Code 64B15-14.0081 (osteopathic board rule)</p> <p>Fla. Admin. Code 64B8-9.0141 and 64B15-14.0081</p> | | <p>(6) Physicians 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) A documented patient evaluation, including history and physical examination to establish the diagnosis for which any legend drug is prescribed. (b) Discussion between the physician or the physician assistant and the patient regarding treatment options and the risks and benefits of treatment. (c) Maintenance of contemporaneous medical records meeting the requirements of Rule 64B8-9.003, F.A.C.</p> <p>(8) <i>A physician-patient relationship may be established through telemedicine.</i></p> <p>Practice Requirements</p> <p>(6) Physicians 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) <i>A documented patient evaluation, including history and physical examination to establish the diagnosis for which any legend drug is prescribed.</i> (b) Discussion between the physician or the physician assistant and the patient regarding treatment options and the risks and benefits of treatment. (c) Maintenance of contemporaneous medical records meeting the requirements of Rule 64B15-15.004, F.A.C.</p> <p>(8) A physician-patient relationship may be established through telemedicine.</p> |
| <p>Georgia</p> | <p>Code of Georgia Ann. 360-3-.07</p> | <p>Yes</p> | <p>Practice Through Electronic or Other Such Means</p> <p>(a) Under O.C.G.A. §§ 43-34-8 and 43-1-19, the Board is authorized to take disciplinary action against licensees for unprofessional conduct, and in connection therewith, to establish standards of practice. 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:</p> <p>(3) A Georgia licensed physician, physician assistant or APRN either:</p> <p>a. Has personally seen and examined the patient and provides ongoing or intermittent care by electronic or other such means; or</p> |

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| | | | <p>b. Is providing medical care by electronic or other such means at the request of a physician, PA or APRN licensed in Georgia who has personally seen and examined the patient; or</p> <p>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 or a minor, and the physician, PA or APRN 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</p> <p>d. <i>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.</i></p> <p>(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, PA or NP at least annually.</p> |
| Hawaii | Haw. Rev. Stat. 453-1.3 | Yes | <p>Practice of telehealth.</p> <p>(b) For the purposes of this section, “telehealth” means 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 purposes of delivering enhanced health care services and information to parties separated by distance, establishing a physician-patient relationship, evaluating a patient, or treating a patient.</p> <p>(c) Telehealth services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and to identify underlying conditions or contra-indications to the treatment recommended or provided.</p> <p>(d) 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.</p> <p>For the purposes of prescribing a controlled substance, a physician-patient relationship shall be established pursuant to chapter 329. (See Definitions section)</p> |

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| | <p>Haw. Rev. Stat. 329-1</p> <p>Haw. Rev. Stat. 269-1</p> <p>Haw. Rev. Stat. 346-1</p> <p>Haw. Rev. Stat. 453-1.3</p> | | <p>(f) <i>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.</i> 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.</p> <p>Prescribing providers must have a provider-patient relationship prior to e-prescribing. This includes: A face-to-face history and physical exam; A diagnosis and therapeutic plan; Discussion of diagnosis or treatment with the patient; Availability of appropriate follow-up care.</p> <p>A physician-patient relationship may be established via telehealth if the patient is referred to the telehealth provider by another health care provider who has conducted an in-person consultation and has provided all pertinent patient information to the telehealth provider.</p> |
| <p>Idaho</p> | <p>Idaho Code Ann. 54-5605</p> <p>Idaho Code Ann. 54-1733</p> | <p>Yes</p> | <p>Prescribing physicians must have prescriber-patient relationship, which includes a documented patient evaluation adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment. Prescriptions based solely on online questionnaires or consults outside of an ongoing clinical relationship are prohibited.</p> <p>Provider-patient relationship</p> |

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| | Idaho Code Ann. 54-5607 | | <p>(1) 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 <i>establish a provider-patient relationship by use of two-way audio and visual interaction</i>; provided however, that the applicable Idaho community standard of care must be satisfied. Nothing in this section shall prohibit electronic communications:</p> <p>(a) Between a provider and a patient with a preexisting provider-patient relationship;</p> <p>(b) Between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;</p> <p>(c) Between a provider and a patient where the provider is taking call on behalf of another provider in the same community who has a provider patient relationship with the patient; or</p> <p>(d) In an emergency.</p> <p>(2) As used in this section, "emergency" means a situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm.</p> <p>Prescriptions</p> <p>(1) A provider with an established provider patient relationship, including a relationship established pursuant to section 54-5605, Idaho Code, 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 however, that the prescription drug shall not be a controlled substance unless prescribed in compliance with 21 U.S.C. section 802(54)(A).</p> |
| Illinois | <p>215 Ill. Comp. Stat. Ann. 5/356z.22(a)</p> <p>225 Ill. Comp. Stat. Ann. § 60/49.5</p> | N/A (Not prohibited) | <p>Patient-physician relationship not addressed in statute. Must defer to professional medical judgment of the treating physician.</p> <p>Definitions</p> <p><i>Interactive telecommunications system</i> – An audio and video system permitting two-way, live interactive communication between the patient and the distant site health care provider.</p> <p><i>Telehealth</i>– The evaluation, diagnosis, or interpretation of electronically transmitted patient-specific data between a remote location and a licensed health professional that generates interaction or treatment recommendations. It includes the delivery of covered health care services provided by way of an interactive telecommunications system.</p> |

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| | | | <p><i>Telemedicine</i> – The performance of any of the activities listed in § 49, including but not limited to rendering written or oral opinions concerning diagnosis or treatment of a patient in Illinois by a person in a different location than the patient as a result of transmission of individual patient data by telephonic, electronic, or other means of communication from within this State. Telemedicine does NOT include:</p> <ol style="list-style-type: none"> (1) Periodic consultations between a person licensed under this Act and a person outside the State of Illinois; (2) A second opinion provided to a person licensed under this Act; (3) Diagnosis or treatment services provided to a patient in Illinois following care or treatment originally provided to the patient in the state in which the provider is licensed to practice medicine; and (4) Health care services provided to an existing patient while the person licensed under this Act or patient is traveling. |
| <p>Indiana</p> | <p>Indiana Code 25-1-9.5(7)</p> | <p>Yes</p> | <p>Sec. 7. (a) A provider who provides health care services through telemedicine shall be held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting. (b) A prescriber may not use telemedicine, including issuing a prescription, for an individual who is located in Indiana unless a provider-patient relationship between the provider and the individual has been established. A prescriber who uses telemedicine shall, if such action would otherwise be required in the provision of the same health care services in a manner other than telemedicine, ensure that a proper provider-patient relationship is established. <i>The provider-patient relationship by a prescriber who uses telemedicine must at a minimum include the following:</i></p> <ol style="list-style-type: none"> (1) Obtain the patient's name and contact information and: (A) a verbal statement or other data from the patient identifying the patient's location; and (B) to the extent reasonably possible, the identity of the requesting patient. (2) Disclose the prescriber's name and disclose whether the prescriber is a physician, physician assistant, advanced practice nurse, optometrist, or podiatrist. (3) Obtain informed consent from the patient. (4) Obtain the patient's medical history and other information necessary to establish a diagnosis. (5) Discuss with the patient the: (A) diagnosis; (B) evidence for the diagnosis; and (C) risks and benefits of various treatment options, including when it is advisable to seek in-person care. (6) Create and maintain a medical record for the patient and, subject to the consent of the patient, notify the patient's primary care provider of any prescriptions the prescriber has written for the patient if the primary care provider's contact information is provided by the patient. The requirements in this subdivision do not apply when any of the following are met: (A) The prescriber is using an electronic health record system that the patient's primary care provider is authorized to access. (B) The prescriber has established an ongoing provider-patient relationship with the patient by providing care to the patient at least two (2) consecutive times through the use of telemedicine services. If the conditions of this clause are met, the prescriber shall maintain a medical record for the patient and shall notify the patient's primary care provider of any issued prescriptions. (7) Issue proper instructions for appropriate followup care. |

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| | <p>Indiana Code 25-1-9.5(9)</p> <p>844 IAC 5-8-1</p> <p>Indiana Code 25-1-9.5(8)</p> | | <p>(8) Provide a telemedicine visit summary to the patient, including information that indicates any prescription that is being prescribed.</p> <p>Sec. 9. (a) A prescriber who is physically located outside Indiana is engaged in the provision of health care services in Indiana when the prescriber:</p> <p>(1) establishes a provider-patient relationship under this chapter with; or</p> <p>(2) determines whether to issue a prescription under this chapter for; an individual who is located in Indiana.</p> <p>(b) A prescriber described in subsection (a) may not establish a provider-patient relationship under this chapter with or issue a prescription under this chapter for an individual who is located in Indiana unless the prescriber and the prescriber’s employer or the prescriber’s contractor, for purposes of providing health care services under this chapter, have certified in writing to the Indiana professional licensing agency, in a manner specified by the Indiana professional licensing agency, that the prescriber and the prescriber’s employer or prescriber’s contractor agree to be subject to:</p> <p>(1) the jurisdiction of the courts of law of Indiana; and</p> <p>(2) Indiana substantive and procedural laws; concerning any claim asserted against the provider, the provider's employer, or the provider's contractor arising from the provision of health care services under this chapter to an individual who is located in Indiana at the time the health care services were provided. The filing of the certification under this subsection shall constitute a voluntary waiver by the provider, the provider's employer, or the provider's contractor of any respective right to avail themselves of the jurisdiction or laws other than those specified in this subsection concerning the claim. However, a provider that practices predominately in Indiana is not required to file the certification required by this subsection. (c) A provider shall renew the certification required under subsection (b) at the time the provider renews the provider's license. (d) A provider's employer or a provider's contractor is required to file the certification required by this section only at the time of initial certification.</p> <p>.</p> <p>Prescribing</p> <p>Sec. 8. (a) A prescriber may issue a prescription to a patient who is receiving services through the use of telemedicine if the patient has not been seen examined previously by the prescriber in person if the following conditions are met:</p> <p>(1) The prescriber has satisfied the applicable standard of care in the treatment of the patient.</p> <p>(2) The issuance of the prescription by the prescriber is within the provider's prescriber's scope of practice and certification.</p> <p>(3) The prescription: (A) meets the requirements of subsection (b); and (B) is not for an opioid. However, an opioid may be prescribed if the opioid is a partial agonist that is used to treat or manage opioid dependence.</p> |

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| | <p>Indiana Code 25-1-9.5(1)-(6)</p> | | <p>(4) The prescription is not for an abortion inducing drug (as defined in IC 161821.6).</p> <p>(5) The prescription is not for an ophthalmic device, including: (A) glasses; (B) contact lenses; or (C) low vision devices.</p> <p>(b) Except as provided in subsection (a), a prescriber may issue a prescription for a controlled substance (as defined in IC 354819) to a patient who is receiving services through the use of telemedicine, even if the patient has not been examined previously by the prescriber in person, if the following conditions are met:</p> <p>(1) The prescriber maintains a valid controlled substance registration under IC 35483.</p> <p>(2) The prescriber meets the conditions set forth in 21 U.S.C. 829 et seq.</p> <p>(3) The patient has been examined in person by a licensed Indiana health care provider and the licensed health care provider has established a treatment plan to assist the prescriber in the diagnosis of the patient.</p> <p>(4) The prescriber has reviewed and approved the treatment plan described in subdivision (3) and is prescribing for the patient pursuant to the treatment plan.</p> <p>(5) The prescriber complies with the requirements of the INSPECT program (IC 35487).</p> <p>(c) A prescription for a controlled substance under this section must be prescribed and dispensed in accordance with IC 35487.</p> <p>844 IAC 5-4-1 and Indiana Code 25-1-9.5(8) address prescribing to persons not seen by the physician.</p> |
| <p>Iowa</p> | <p>Iowa Medical Board Rule 653—13.11 (147,148,272C)</p> | <p>Yes</p> | <p>(7) Physician-patient relationship.</p> <p><i>a.</i> A licensee who uses telemedicine shall establish a valid physician-patient relationship with the person who receives telemedicine services. The physician-patient relationship begins when:</p> <p>(1) The person with a health-related matter seeks assistance from a licensee;</p> <p>(2) The licensee agrees to undertake diagnosis and treatment of the person; and</p> <p>(3) The person agrees to be treated by the licensee whether or not there has been an in person encounter between the physician and the person.</p> <p><i>b.</i> A valid physician-patient relationship may be established:</p> <p>(1) <i>Through an in person medical interview and a physical examination (when medically necessary) where an in person encounter would otherwise be required in the provision of the same service not delivered via telemedicine;</i></p> <p>(2) 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</p> |

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| | | | <p>(3) In accordance with evidence-based telemedicine practice guidelines that are established by nationally recognized medical specialty organizations and address the clinical and technological aspects of telemedicine.</p> <p>(8) Medical history and physical examination. Generally, a licensee shall perform an in-person medical interview and a physical examination for each patient. <i>However, the medical interview and physical examination may not be in-person if the technology utilized in a telemedicine encounter is sufficient to establish an informed diagnosis as though the medical interview and physical examination had been performed in-person.</i> Prior to providing treatment, including issuing prescriptions, electronically or otherwise, a licensee who uses telemedicine shall ensure that the patient is interviewed to collect the patient’s relevant medical history and that the patient receives a physical examination, when medically necessary, sufficient for the diagnosis and treatment of the patient. An 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) alone does not constitute an acceptable medical interview and physical examination for the provision of treatment, including issuance of prescriptions, electronically or otherwise, by a licensee.</p> <p>(20) Circumstances where the standard of care may not require a licensee to personally interview or examine a patient. Under the following circumstances, whether or not such circumstances involve the use of telemedicine, a licensee may treat a patient who has not been personally interviewed, examined and diagnosed by the licensee</p> <ol style="list-style-type: none"> a. situations in which the licensee prescribed medications on a short-term basis for a new patient and has scheduled or is in the process of scheduling an appointment to personally examine the patient; b. for institutional settings, including writing initial admission orders for a newly hospitalized patient; c. call situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient d. cross-coverage situations in which a licensee is taking call for another licensee who has an established physician-patient relationship with the patient e. situation in which the patient has been examined in person by an advanced registered nurse practitioner or a physician assistant or other licensed practitioner with whom the licensee has a supervisory or collaborative relationship f. emergency situations that constitute an immediate threat to the public health including, but not limited to, empiric treatment or prophylaxis to prevent or control or infectious disease outbreak g. situations in which the licensee has diagnosed an STD in a patient and the licensee prescribes or dispenses antibiotics to the patient’s named sexual partners for the treatment of the STD as recommended by the US CDC h. for licensed or certified nursing facilities, residential care facilities, intermediate care facilities, assisted living facilities and hospice settings <p>Prescribing</p> |

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| | | | (20) Prescribing to a patient based solely on an internet request or questionnaire is prohibited. Absent a valid physician-patient relationship, a licensee's prescribing to a patient based solely on a telephonic evaluation is prohibited, with the exception of the circumstances described in subrule 13.11(20). |
| Kansas | KSA 2017 Supp. 40-2 | Yes | <p><i>Telemedicine</i>, including <i>telehealth</i> - The delivery of healthcare services or consultations while the patient is at an originating site and the healthcare provider is at a distant site. Telemedicine shall be provided by means of real-time two-way interactive audio, visual, or audio-visual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health-care delivery, that facilitate the assessment, diagnosis, consultation, treatment, education and care management of a patient's healthcare. It does not include communication between healthcare providers that consists solely of a telephone voice-only conversation, email or facsimile transmission; or a physician and a patient that consists solely of an email or facsimile transmission.</p> <p>Telemedicine may be used to establish a valid provider-patient relationship. The same standards of practice and conduct that apply to health-care services delivered via in person contact shall also apply to healthcare services delivered via telemedicine. A person authorized by law to provide and who provides telemedicine services to a patient shall provide the patient with guidance on appropriate follow-up care. Except when otherwise prohibited by another provision of law, when the patient consents and the patient has a primary care or other treating physician, the person providing telemedicine services shall send within three business days a report to the primary care or other treating physician of the treatment and services rendered to the patient in the telemedicine encounter. (Effective Jan 1, 2019)</p> |
| Kentucky | Kentucky Rev. Stat. Ann. 311.597 Medical board opinion* | Yes | <p>Acts declared to constitute dishonorable, unethical, or unprofessional conduct.</p> <p>(e) 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: 1. Verification that the person requesting medication is in fact who the patient claims to be; 2. Establishment of a documented diagnosis through the use of accepted medical practices; and 3. Maintenance of a current medical record. For the purposes of this paragraph, an electronic, on-line, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient or for any follow-up evaluation.</p> <p>Medical board opinion regarding the use of telemedicine technologies</p> |

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| | <p>*Not an administrative regulation, does not have force of law.</p> <p>907 KAR 3:170</p> | | <p>The physician-patient relationship tends to begin when an individual with a health-related matter seeks assistance from a physician who may provide assistance. 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 and patient</p> <p>A physician is discouraged from rendering medical advice and/or care using telemedicine technologies without (1) fully verifying and authenticating the location and identifying the requesting patient; (2) disclosing and validating the provider’s identity and applicable credentials; and (3) obtaining appropriate consents, including any informed consents regarding the use of telemedicine.</p> <p>Where an existing physician-patient relationship is not present, it is the acceptable and prevailing medical practice to take appropriate steps to establish a patient-physician relationship consistent with the steps outlined in Section II [of the medical board rule], and, while each circumstance is unique, such <i>physician-patient relationships may be established using telemedicine technologies provided the standard of care is met and acceptable and prevailing medical practices followed.</i></p> <p>Definitions</p> <p><i>Telehealth</i> – The delivery of health care-related services by a Medicaid provider who is a health care provider licensed in Kentucky to a Medicaid recipient through a face-to-face encounter with access to real-time interactive audio and video technology or store and forward services that are provided via asynchronous technologies as the standard practice of care where images are sent to a specialist for evaluation.</p> <p>The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the Medicaid recipient’s medical history prior to the telehealth encounter. It shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone calls and it shall be delivered over a secure communication connection that complies with the federal Health Insurance Portability and Accountability Act of 1996.</p> <p><i>Telehealth consultation</i> – A medical or health consultation for purposes of patient diagnosis or treatment that meets the definition in the telehealth section. A health benefit plan shall not require a provider to be physically present with a patient or client unless the provider determines that it is necessary to perform those services in person; require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person; require demonstration that it is necessary to provide services to a patient or client through telehealth; require a provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person; restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services; or require a provider to be part of a telehealth network.</p> |

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| | | | A physician performing or inducing an abortion shall be present in person and in the same room with the patient. The use of telehealth shall not be allowed in the performance of an abortion. |
| Louisiana | Louisiana Rev. Stat. 37:1276.1 L.R.S. 37:1271 | Yes | <p>(2) The physician, when examining a patient by telemedicine, shall establish a bona fide physician-patient relationship by:</p> <ul style="list-style-type: none"> (a) Conducting an <i>appropriate examination</i> of the patient as determined by the board. (b) Establishing a <i>diagnosis</i> through the use of accepted medical practices including but not limited to patient history, mental status, and appropriate diagnostic and laboratory testing. (c) Discussing with the patient any diagnosis as well as the risks and benefits of various treatment options. (d) Ensuring the availability for appropriate follow-up care. (e) Fulfilling any other requirements as deemed appropriate and necessary by the board. <p>For physicians practicing telemedicine and treating a patient at a healthcare facility that is required to be licensed according to the laws of LA and holds a current registration with the US Drug Enforcement Administration:Physician must use the same standard of care as in person.Physician must be authorized to prescribe any controlled dangerous substance without necessity of conducting an appropriate in-person patient history or physical examination.Physician shall not be subject to any regulation prohibition or restriction on the use of telemedicine that is more restrictive than those that are otherwise applicable to their entire profession.</p> <p>No physician practicing telemedicine can prescribe a controlled dangerous substance prior to conducting an appropriate in-person patient history or physical examination of the patient.</p> <p>B.(1) 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 pursuant to R.S. 37:1276.1.</p> <p>(2) Except as provided in R.S. 37:1276.1, all of the following shall apply to any physician practicing telemedicine as defined in this Part:</p> <ul style="list-style-type: none"> (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 <i>shall not be required to conduct an in-person patient history or physical examination</i> of the patient before engaging in a telemedicine encounter <i>if the physician satisfies all of the following conditions</i>: <ul style="list-style-type: none"> (i) Holds an unrestricted license to practice medicine in Louisiana. (ii) Has access to the patient's medical records upon consent of the patient. (iii) Creates a medical record on each patient and makes such record available to the board upon request. (iv) If necessary, provides a referral to a physician in this state or arranges for follow-up care in this state as may be indicated. |

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| | | | <p>(4)(a) 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.</p> <p>(b) A physician practicing telemedicine may utilize interactive audio without the requirement of video if, after access and review of the patient's medical records, the physician determines that he is able to meet the same standard of care as if the healthcare services were provided in person.</p> <p>(5) 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 nontelemedicine 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.</p> <p>(6) Venue in any suit filed involving care rendered via telemedicine shall be in accordance with the provisions of R.S. 40:1223.5.</p> |
| Maine | 22 MRSA 3173-H | Yes (Not prohibited) | <p>Definitions</p> <p><i>Asynchronous encounters</i> – The interaction between a patient and a health professional through a system with the ability to store digital information, including, but not limited to, still images, video, audio and text files, and other relevant data in one location and subsequently transmit such information for interpretation at a remote site by health professionals without requiring the simultaneous presence of the patient or the patient’s provider.</p> <p><i>Store and forward transfers</i> – Transmission of a patient’s recorded health history through a secure electronic system to a provider.</p> <p><i>Synchronous encounters</i> – Real-time interaction conducted with interactive audio or video connection between a patient and the patient’s provider or between providers.</p> <p><i>Telehealth</i> – As it pertains to the delivery of health care services, means the use of interactive real-time visual and audio or other electronic media for the purpose of consultation and education concerning and diagnosis, treatment, care management and self-management of a patient’s physical and mental health and includes real-time encounters, store and forward transfers and remote patient monitoring. “Telehealth” includes telephone services when interactive telehealth services are unavailable or when a telephonic service is medically appropriate for the underlying covered service.</p> <p><i>Telemonitoring</i> – As it pertains to the delivery of health care services, means the use of information technology to remotely monitor a patient’s health status via electronic means through the use of clinical data while the patient remains in a residential setting, allowing the provider to track the patient’s health data over time. Telemonitoring may or may not take place in real time.</p> |

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| | 24-A Maine Rev. Stat. Ann. § 4316 | | <p><i>Telemedicine</i> – The use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment. Telemedicine does not include the use of audio-only telephone, fax machine or email. reimbursement context)</p> <p><i>Face to face encounter</i> – An encounter between the member and the certifying physician, or a nurse practitioner or clinical nurse specialist who is working in collaboration with the physician, or a certified nurse midwife as authorized by State law or physician assistant under the supervision of the physician. (home health context)</p> |
| Maryland | <p>COMAR 10.32.05.05</p> <p>COMAR 10.32.05.01</p> | Yes | <p>A. A physician shall perform a patient evaluation adequate to establish diagnoses and identify underlying conditions or contraindications to recommended treatment options before providing treatment or prescribing medication.</p> <p>B. A Maryland-licensed physician may rely on a patient evaluation performed by another Maryland-licensed physician if one physician is providing coverage for the other physician.</p> <p>C. <i>If 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.</i></p> <p>Definitions</p> <p><i>Physician-patient relationship</i> – A relationship between a physician and a patient in which there is an exchange of individual, patient-specific information.</p> <p><i>Telemedicine</i> – 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.</p> <p><i>Face to face</i> – Within each other’s sight and presence.</p> |
| Massachusetts | Board of Registration of Medicine Policy 03-06 | Yes | This statutory language sets forth the minimum requirements that must be met in order for a prescription to be valid in the Commonwealth. To satisfy the requirement that a prescription be issued by a practitioner in the usual course of his professional practice, there must be a physician-patient relationship that is for the purpose of maintaining the patient’s well-being and the physician <i>must conform to certain minimum norms and standards for the care of patients,</i> |

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| | 243 CMR 2.01 | | <p>such as taking an <i>adequate medical history and conducting an appropriate physical and/or mental status examination</i> 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 therefore unlawful.</p> <p>The Practice of Medicine includes:</p> <ol style="list-style-type: none"> 1. Telemedicine – defined as 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; and providing an independent medical examination or a disability evaluation. 2. Telemedicine: 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. |
| Michigan | <p>MI Compiled Laws 333.17751</p> <p>MI Compiled Laws 16285</p> <p>Senate Bill No.270 Statute 7303a</p> <p>Michigan Insurance Code 500.3476</p> | Yes | <p>Providers must have an existing physician-patient relationship.</p> <p>A health professional providing telehealth service to a patient may prescribe the patient a drug if both the following are met: The health professional is a prescriber who is acting within the scope of his or her practice; and If the health professional is prescribing a controlled substance, the health professional must meet the requirements of this act applicable to that health professional for prescribing a controlled substance. The health professional must also provide a referral for health care services that are geographically accessible to the patient, if medically necessary. They also must make himself or herself (or a delegated health professional) available for follow-up care or refer the patient to another health professional for follow-up care.</p> <p>Controlled Substances (Schedule II-V) Must have a bona fide prescriber-patient relationship and must provide follow up care or ensure that the patient’s primary care provider provides follow-up care. A bona fide prescriber-patient relationship means the prescriber has reviewed the patient’s relevant medical or clinical records and completed an assessment of the patient’s medical history and current medical condition, including a relevant medical evaluation conducted in person or via telehealth.</p> <p>Telemedicine services; provisions; definition; applicability</p> <p>(2) As used in this section, “telemedicine” means the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under this section, the health care professional must be able to examine the patient via a <i>real-time, interactive audio or video, or both</i>, telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided.</p> |
| Minnesota | | Yes | Subd. 2. Physician-patient relationship. A physician-patient relationship may be established through telemedicine. |

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| | <p>Minnesota Stat. Ann. 147.033</p> <p>Minnesota Stat. Ann 151.37</p> <p>Minnesota Stat. Ann. 147.033(1)(1)</p> | | <p>Subd. 3. Standards of practice and conduct. A physician providing health care services by telemedicine in this state shall be held to the same standards of practice and conduct as provided in this chapter for in-person health care services.</p> <p>Prescribing</p> <p>(d) A prescription drug order for the following drugs is not valid, unless it can be established that the prescription drug order was based on a documented patient evaluation, including an examination, adequate to establish a diagnosis and identify underlying conditions and contraindications to treatment:</p> <ol style="list-style-type: none"> 1. controlled substance drugs listed in section 152.02, subdivisions 3 to 5; 2. drugs defined by the Board of Pharmacy as controlled substances under section 152.02, subdivisions 7, 8, and 12; 3. muscle relaxants; 4. centrally acting analgesics with opioid activity; 5. drugs containing butalbital; or 6. phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction. <p>(e) For the Purposes of paragraph (d), the requirement for an examination shall be met <i>if an in-person examination has been completed in any of the following circumstances:</i></p> <ol style="list-style-type: none"> 1. the prescribing practitioner examines the patient at the time the prescription or drug order is issued; 2. the prescribing practitioner has performed a prior examination of the patient; 3. another prescribing practitioner practicing within the same group or clinic as the prescribing practitioner has examined the patient; 4. a consulting practitioner to whom the prescribing practitioner has referred the patient has examined the patient; or 5. the referring practitioner has performed an examination in the case of a consultant practitioner issuing a prescription or drug order when providing services by means of telemedicine |
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| Mississippi | <p>MS Code Ann. 41-29-137</p> <p>MS Code 83-9-351</p> <p>Mississippi Admin. Code 30-17-2635-5.4</p> <p>Mississippi Admin. Code 30-17-2635-5.5</p> <p>Miss. Code Ann. §73-25-34</p> | Yes | <p>A prescription for a controlled substance based solely on a consumer's completion of an online medical questionnaire is not a valid prescription.</p> <p>A health care practitioner may prescribe medication after an appropriate examination through the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically.</p> <p>Patient-Physician Relationship</p> <p>In order to practice telemedicine a valid “physician patient relationship” must be established. The elements of this valid relationship are:</p> <ul style="list-style-type: none"> A. verify that the person requesting the medical treatment is in fact who they claim to be; B. conducting an <i>appropriate examination of the patient that meets the applicable standard of care</i>; 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. <p>Examination</p> <p>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, <i>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</i>. 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.</p> <p>Licensure</p> <p>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.</p> |

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| | Mississippi Admin. Code 30-17-2635-5.1(B) | | |
| Missouri | RSMo 191.1146 RSMo 191.1145 | Yes | <p>Physician-patient relationship required, how established.</p> <p>1. Physicians licensed under chapter 334 who use telemedicine shall ensure that a properly established physician-patient relationship exists with the person who receives the telemedicine services. <i>The physician-patient relationship may be established by:</i></p> <ul style="list-style-type: none"> (1) An in-person encounter through a medical interview and physical examination; (2) Consultation with another physician, or that physician's delegate, who has an established relationship with the patient and an agreement with the physician to participate in the patient's care; or (3) A telemedicine encounter, if the standard of care does not require an in-person encounter, and in accordance with evidence-based standards of practice and telemedicine practice guidelines that address the clinical and technological aspects of telemedicine. <p>2. In order to establish a physician-patient relationship through telemedicine:</p> <ul style="list-style-type: none"> (1) The technology utilized shall be sufficient to establish an informed diagnosis as though the medical interview and physical examination has been performed in person; and (2) Prior to providing treatment, including issuing prescriptions, a physician who uses telemedicine shall interview the patient, collect or review relevant medical history, and perform an examination sufficient for the diagnosis and treatment of the patient. A questionnaire completed by the patient, whether via the internet or telephone, does not constitute an acceptable medical interview and examination for the provision of treatment by telehealth. <p>No health care provider shall prescribe any drug, controlled substance or other treatment to a patient based solely on an evaluation over the telephone unless there is a previously established and ongoing physician-patient relationship.No health care provider shall prescribe based solely on an internet request or questionnaire.</p> <p>Definitions — telehealth services authorized, when. — 1. As used in sections 191.1145 and 191.1146, the following terms shall mean:</p> |

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| | | | <p>(1) "Asynchronous store-and-forward transfer", the collection of a patient's relevant health information and the subsequent transmission of that information from an originating site to a health care provider at a distant site without the patient being present;</p> <p>(2) "Clinical staff", any health care provider licensed in this state;</p> <p>(3) "Distant site", a site at which a health care provider is located while providing health care services by means of telemedicine;</p> <p>(4) "Health care provider", as that term is defined in section 376.1350;</p> <p>(5) "Originating site", a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine. For the purposes of asynchronous store-and-forward transfer, originating site shall also mean the location at which the health care provider transfers information to the distant site;</p> <p>(6) "Telehealth" or "telemedicine", the delivery of health care services by means of information and communication technologies which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while such patient is at the originating site and the health care provider is at the distant site. Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology.</p> <p>2. Any licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person.</p> <p>3. In order to treat patients in this state through the use of telemedicine or telehealth, health care providers shall be fully licensed to practice in this state and shall be subject to regulation by their respective professional boards.</p> <p>4. Nothing in subsection 3 of this section shall apply to:</p> <p>(1) Informal consultation performed by a health care provider licensed in another state, outside of the context of a contractual relationship, and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;</p> <p>(2) Furnishing of health care services by a health care provider licensed and located in another state in case of an emergency or disaster; provided that, no charge is made for the medical assistance; or</p> <p>(3) Episodic consultation by a health care provider licensed and located in another state who provides such consultation services on request to a physician in this state.</p> |

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| | | | <p>5. Nothing in this section shall be construed to alter the scope of practice of any health care provider or to authorize the delivery of health care services in a setting or in a manner not otherwise authorized by the laws of this state.</p> <p>6. No originating site for services or activities provided under this section shall be required to maintain immediate availability of on- site clinical staff during the telehealth services, except as necessary to meet the standard of care for the treatment of the patient's medical condition if such condition is being treated by an eligible health care provider who is not at the originating site, has not previously seen the patient in person in a clinical setting, and is not providing coverage for a health care provider who has an established relationship with the patient.</p> <p>7. Nothing in this section shall be construed to alter any collaborative practice requirement as provided in chapters 334 and 335.</p> |
| Montana | Montana Code Ann. 37-3-102(13) | N/A (Not prohibited) | The patient-physician relationship is not addressed in statute. |
| Nebraska | <p>Rev. Stat. Nebraska Ann. 38-2001</p> <p>Rev. Stat. Nebraska Ann. 71-8501</p> <p>Rev. Stat. Nebraska Ann. 38-2001(6)</p> | Yes (Not prohibited) | <p>A physician or physician assistant may establish a provider-patient relationship through telehealth and may prescribe while using telehealth.</p> <p>The Nebraska Telehealth Act requires certain written disclosures from the patient prior to a new patient exam (see section 71-8505). A physician or physician assistant may establish a provider-patient relationship through telehealth.</p> <p>Notably, in order to practice telehealth in Nebraska, a physician must be enrolled as a Medicaid provider. RSNA 71-8503(2) provides that for purposes of the Nebraska Telehealth Act, "Health care practitioner means a Nebraska Medicaid-enrolled provider who is licensed, registered, or certified to practice in this state by the department."</p> <p>A licensed physician or licensed physician assistant who is providing a telehealth service to a patient may prescribe the patient a drug if the licensed physician or licensed physician assistant is authorized to prescribe.</p> <p>Definitions</p> |

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| | Rev. Stat. Nebraska Ann. 38-105 | | <p><i>Telehealth</i> – The use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a credential holder 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 credential holder at another site for medical evaluation, and telemonitoring.</p> <p><i>Telemonitoring</i> – The remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a credential holder for analysis and storage.</p> |
| Nevada | <p>Nevade Rev. Stat. 633-165</p> <p>Nevada Rev. Stat. 630.020</p> <p>Nevada Rev. Stat. Ann. 633.171 (osteopathic practice act)</p> <p>NV Bill AB 292</p> | Yes | <p>A bona fide relationship between a patient and osteopathic physician (needed for a prescription) can be established via telemedicine.</p> <p>The practice of medicine is defined in part as “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.</p> <p>Before an osteopathic physician may engage in telemedicine pursuant to this section:</p> <p>(a) A bona fide relationship between the osteopathic physician and the patient must exist which must include, without limitation, a history and an examination or consultation which occurred <i>in person or through the use of telemedicine</i> and which was sufficient to establish a diagnosis and identify any underlying medical conditions of the patient.</p> <p>A provider of health care who is located at a distant site and uses telehealth to direct or manage the care or render a diagnosis of a patient who is located in Nevada or write a treatment order or prescription for such a patient must comply with all state and federal laws that would apply if the provider was located within the state.</p> |
| New Hampshire | <p>RSA 329:1-c</p> <p>NH Bill SB 84</p> <p>RSA 22-1</p> | Yes | <p>A physician-patient relationship requires an in-person exam that may take place via a face-to-face 2-way real time interactive communication. Prescribing drugs to individuals without a physician-patient relationship is prohibited, except under the following conditions: Writing admission orders for a newly hospitalized patient; A patient of another provider for whom the prescriber is taking call; A prescription for a patient who has been examined by a physician assistant, nurse practitioner, or other licensed practitioner; Medication on a short-term basis for a new patient prior to the patient's first appointment; When providing limited treatment to a family member in accordance with the American Medical Association Code of Medical Ethics. It is unlawful to prescribe through telemedicine a controlled drug classified in schedule II through IV. A prescription of a non-opioid controlled drug classified in schedule II through IV via telemedicine shall be limited to certain practitioners who are treating a patient with whom the prescriber has an in-person practitioner-patient relationship, for purposes of monitoring or follow-up care, and who are treating patients at a state designated community mental health center or a Substance</p> |

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| | | | Abuse and Mental Health Services Administration-certified state opioid treatment program, and shall require an initial in-person exam by a practitioner licensed to prescribe the drug. |
| New Jersey | R.S.45:9-18 NJ Statute C. 45:1-62 NJ Statute C. 45:1-63 | Yes | <p>a. Unless specifically prohibited or limited by federal or state law, a health care practitioner may remotely provide health care services to a patient in the state, and a bona fide relationship between health care practitioner and patient may be established, through the use of telemedicine.</p> <p>b. A health care practitioner who provides a health care service to a patient through the use of telemedicine shall be subject to the same standards of care and rules of practice as are applicable to traditional in-person practice, and the use of telemedicine shall not alter or diminish any existing duty or responsibility related to recordkeeping, or the maintenance of patient confidentiality. Any health care practitioner who engages in telemedicine in a manner that does not comply with the ordinary standards of care or rules of practice applicable to in-person practice, shall be subject to discipline by the respective licensing board, as provided by law.</p> <p>c. A health care practitioner is authorized to engage in consultations with an out-of-state peer professional, including, but not limited to, a sub-specialist, using electronic or other means, and shall not be required to obtain an additional license or separate authorization in order to do so.</p> <p>d. Notwithstanding any provision of law to the contrary, and in order to facilitate the increased use of telemedicine as authorized by this section, when a health care practitioner proposes to engage in telemedicine with patients in a hospital, the governing body of the hospital, as necessary and appropriate, shall verify and approve the credentials of, and grant telemedicine practice privileges to, such practitioner, based solely upon the recommendations of the hospital's medical staff, which recommendations have been derived from information provided by the originating site employer.</p> <p>e. The state boards or other entities that are responsible for the licensure of health care practitioners in this state, shall each adopt rules and regulations that are applicable to the health care practitioners under their respective jurisdictions, as may be necessary to clarify that such practitioners when engaged in telemedicine, will be subject to the same rules of practice and standards of care as are applicable to health care practitioners who are engaged in the provision of health care services to patients through the use of traditional in-person means or methods. Such rules and regulations may require an applicant for an initial or renewed practice license to provide proof of their successful completion of training in the effective use of technology and the maintenance of records and patient confidentiality when engaged in telemedicine.</p> <p>The prescription of Schedule II controlled substances through telemedicine or telehealth is authorized only after an initial in person examination, and subsequent in person visit with the patient every three months for the duration of prescription. Does not apply when</p> |

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| | | | <p>prescribing stimulant for use by a minor provided by live video when treating the patient and the health care provider has obtained written consent for the waiver form the minor patient’s parent or guardian.</p> <p>A provider patient relationship shall include: Properly identifying the patient Disclosing and validating the provider’s identity and credentials Review of patient’s medical records, prior to initiating contact. Determining whether the provider will be able to meet the standard of care, prior to initiating contact.</p> |
| <p>New Mexico</p> | <p>New Mexico Admin. Code 16.10.8.7</p> <p>New Mexico Admin. Code 16.10.8.8</p> <p>N. M. S. A. 1978, 24-25-3 (osteopathic practice act)</p> | <p>Yes</p> | <p>Medical ethics. Established physician-patient relationship means a relationship between a physician and a patient that is for the purpose of maintaining the patient’s well-being. At a minimum, this relationship is established by an <i>interactive encounter between patient and physician involving an appropriate history and physical and/or mental status examination sufficient to make a diagnosis and to provide, prescribe or recommend treatment</i>, with the informed consent from the patient and availability of the physician or coverage for the patient for appropriate follow-up care. A medical record must be generated by the encounter.</p> <p>Unprofessional or dishonorable conduct. As defined in the Medical Practice Act, Section 61-6-15,D,(29), “unprofessional or dishonorable conduct” includes, but is not limited to, the following: (L.) prescribing, dispensing or administering drugs or medical supplies to a patient when there is no established physician-patient relationship, including prescribing over the internet or via other electronic means that is based solely on an on-line questionnaire; except for: (6) the provision of consultation, recommendation, or treatment during a <i>face-to-face telehealth encounter online, using standard videoconferencing technology</i>, where a medical history and informed consent are obtained and a medical record generated by the practitioner, and a physical examination is: (a) recorded as appropriate by the practitioner, or a practitioner such as a physician, a physician or anesthesiologist assistant, or an advanced practice nurse, with the results communicated to the telehealth practitioner; or (b) waived when a physical examination would not normally be part of a typical physical face-to-face encounter with the patient for the specific services being provided.</p> <p>The New Mexico Telehealth Act, 24-25-1 does not speak to establishment of the patient-physician relationship via telemedicine.</p> |

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| <p>New York</p> | <p>NY Medical Board of Professional Medical Conduct</p> <p>Statements on Telemedicine</p> <p>NY Public Health Law 2999-cc</p> | <p>Yes</p> | <p>A critical issue in telemedicine is determining the definition of a physician-patient relationship. The references reviewed by the committee have some degree of variation in their definitions related to the general purpose of each document. Some general statements are self-evident in their identification of a physician-patient relationship, and certain types of telecommunication are easily identifiable as not constituting a physician-patient relationship. Health information sites accessed for general information only, without personal interaction, through electronic media are no different from accessing a reference text in a library, and do not constitute a professional relationship. The fact that most types of telemedicine practice are not reimbursed is irrelevant. The committee concluded that the following statement of ACOG is a clear and practical guiding principal: <i>“If a patient receives professional advice or treatment, even gratuitously, there is prima facie evidence that a physician-patient relationship exists.”</i></p> <p>Definitions</p> <p><i>Telehealth</i> – 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.</p> <p><i>Telemedicine</i> – The use of synchronous, two-way electronic audio visual communications to deliver clinical health care services, which shall include the assessment, diagnosis, and treatment of a patient, while such patient is at the originating site and a telehealth provider is at a distant site.</p> |
| <p>North Carolina</p> | <p>NCMB Position Statement on Telemedicine</p> | <p>Yes</p> | <p>Telemedicine</p> <p><i>Evaluations and Examinations</i> — Licensees using telemedicine technologies to provide care to patients located in North Carolina must provide an appropriate evaluation prior to diagnosing and/or treating the patient. <i>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.</i> Other evaluations may also be considered appropriate if the licensee is at a distance from the patient, but a licensed health care professional is able to provide various physical findings that the licensee needs to complete an adequate assessment. On the other hand, a simple questionnaire without an appropriate evaluation may be a violation of law and/or subject the licensee to discipline by the Board.</p> <p><i>Licensee-Patient Relationship.</i> The Board stresses the importance of proper patient identification in the context of the telemedicine encounter. Failure to verify the patient’s identity may lead to fraudulent activity or the improper disclosure of confidential patient information. The licensee using telemedicine</p> |

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| | <p>NCDB Position Statement on Contact with Patients before Prescribing</p> <p>NCMB Position Statement on Telemedicine</p> | | <p>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. <i>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.</i> 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.</p> <p>Contact with patients before prescribing</p> <p>Prescribing for a patient whom the licensee has not personally examined may be suitable under certain circumstances. These may include admission orders for a newly hospitalized patient, interim medication orders or prescriptions, including pain management, from a hospice physician for a patient admitted to a certified hospice program, prescribing for a patient of another licensee for whom the prescriber is taking call, continuing medication on a short-term basis for a new patient prior to the patient’s first appointment, <i>an appropriate prescription in a telemedicine encounter where the threshold information to make an accurate diagnosis has been obtained</i>, prescribing an opiate antagonist to someone in a position to assist a person at risk of an opiate-related overdose, or an appropriate prescription in anticipation of a diagnostic test consistent with the standard of care in that particular specialty.</p> <p>Medical board Position Statement on the patient-physician relationship does not address how to establish such a relationship.</p> <p>Definitions</p> <p><i>Telemedicine</i> – 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.</p> |
| <p>North Dakota</p> | <p>ND Admin Code 50-2-15 ND Cent. Code 19-02.1-15.1</p> | <p>Yes (Not prohibited)</p> | <p>A patient-licensee relationship must be established prior to treatment of a patient. The evaluation and examination can be done entirely through telemedicine if it is equivalent to an in-person examination. An examination done only through a static online questionnaire or an audio conversation may not be considered to meet the standard of care. It is recognized that in some telemedicine situations, utilizing asynchronous store and forward technology or electronic monitoring, it is not necessary for an independent examination of the patient. A valid prescription via e-prescribing means a prescription has been issued for a legitimate medical purpose, in the usual course of professional practice, by a practitioner who has first conducted an in-person medical evaluation of the patient. An in-person medical evaluation can include the referring practitioner having performed the exam, in the case of telemedicine.</p> |

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| Ohio | <p data-bbox="478 402 634 548"> State Medical Board of Ohio Position Statement on Telemedicine </p> <p data-bbox="491 919 620 943">4731-11-09</p> | Yes | <p data-bbox="903 402 1266 427">Licensee – Patient Relationship</p> <p data-bbox="903 464 2569 578">A licensee using telemedicine should have some means of verifying that the patient seeking treatment is in fact who they claim to be. A diagnosis should be established through the use of accepted medical practices, i.e., a patient history, mental status examination, physical examination, and any 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.</p> <p data-bbox="903 618 1064 643">Examinations</p> <p data-bbox="903 678 2556 760">Licensees using telemedicine technologies to provide care to patients located in Ohio must provide an appropriate examination prior to diagnosing and/or treating the patient. However, <i>this examination need not be in-person if the technology is sufficient to provide the same information to the licensee as if the exam had been performed face-to-face.</i> If a licensee is prescribing a drug as part of a patient visit, please refer to the prescribing portion of this document.</p> <p data-bbox="903 800 2515 881">Other examinations may also be considered appropriate if the licensee is at a distance from the patient, but a licensed health care professional is able to provide various physical findings that the licensee needs to complete an adequate assessment. On the other hand, a simple questionnaire without an appropriate examination may be a violation of law and/or subject the licensee to discipline by the Board</p> <p data-bbox="903 922 1454 946">Prescribing to persons not seen by the physician</p> <p data-bbox="903 984 2515 1032">(A) Except as provided in paragraph (D) of this rule, a physician shall not prescribe, personally furnish, otherwise provide, or cause to be provided, any controlled substance to a person on whom the physician has never conducted a physical examination.</p> <p data-bbox="903 1040 2515 1089">(B) Except as provided in paragraph (C) of this rule, a physician shall not prescribe, personally furnish, otherwise provide, or cause to be provided, any prescription drug that is not a controlled substance to a person on whom the physician has never conducted a physical examination.</p> <p data-bbox="903 1097 2569 1187">(C) A physician may prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug that is not a controlled substance to a person on whom the physician has never conducted a physical examination and who is at a location remote from the physician by complying with all of the following requirements:</p> <ol data-bbox="903 1195 2529 1308" style="list-style-type: none"> <li data-bbox="903 1195 1709 1219">(1) The physician shall establish the patient's identity and physical location; <li data-bbox="903 1227 2032 1252">(2) The physician shall obtain the patient's informed consent for treatment through a remote examination; <li data-bbox="903 1260 2529 1308">(3) The physician shall request the patient's consent and, if granted, forward the medical record to the patient's primary care provider or other health care provider, if applicable, or refer the patient to an appropriate health care provider or health care facility; |

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| | | | <p>(4) The physician shall, through interaction with the patient, complete a medical evaluation that is appropriate for the patient and the condition with which the patient presents and that meets the minimal standards of care, which may include portions of the evaluation having been conducted by other Ohio licensed healthcare providers acting within the scope of their professional license;</p> <p>(5) The physician shall establish or confirm, as applicable, a diagnosis and treatment plan, which includes documentation of the necessity for the utilization of a prescription drug. The diagnosis and treatment plan shall include the identification of any underlying conditions or contraindications to the recommended treatment;</p> <p>(6) The physician shall document in the patient's medical record the patient's consent to treatment through a remote evaluation, pertinent history, evaluation, diagnosis, treatment plan, underlying conditions, any contraindications, and any referrals to appropriate health care providers, including primary care providers or health care facilities;</p> <p>(7) The physician shall provide appropriate follow-up care or recommend follow-up care with the patient's primary care provider, other appropriate health care provider, or health care facility in accordance with the minimal standards of care;</p> <p>(8) The physician shall make the medical record of the visit available to the patient;</p> <p>(9) The physician shall use appropriate technology that is sufficient for the physician to conduct all steps in this paragraph as if the medical evaluation occurred in an in-person visit.</p> <p>(D) A physician may prescribe, personally furnish, otherwise provide, or cause to be provided a prescription drug that is a controlled substance to a person on whom the physician has not conducted a physical examination and who is at a location remote from the physician in any of the following situations:</p> <p>(1) The person is an active patient, as that term is defined in paragraph (D) of rule 4731-11-01 of the Administrative Code, of an Ohio licensed physician or other health care provider who is a colleague of the physician and the drugs are provided pursuant to an on call or cross coverage arrangement between them and the physician complies with all steps of paragraph (C) of this rule;</p> <p>(2) The patient is physically located in a hospital or clinic registered with the United States drug enforcement administration to personally furnish or provide controlled substances, when the patient is being treated by an Ohio licensed physician or other healthcare provider acting in the usual course of their practice and within the scope of their professional license and who is registered with the United States drug enforcement administration to prescribe or otherwise provide controlled substances in Ohio.</p> <p>(3) The patient is being treated by, and in the physical presence of, an Ohio licensed physician or healthcare provider acting in the usual course of their practice and within the scope of their professional license, and who is registered with the United States drug enforcement administration to prescribe or otherwise provide controlled substances in Ohio.</p> <p>(4) The physician has obtained from the administrator of the United States drug enforcement administration a special registration to prescribe or otherwise provide controlled substances in Ohio.</p> <p>(5) The physician is the medical director or attending physician for a hospice program licensed pursuant to chapter 3712. of the Revised Code and both of the following conditions are met:</p> <p>(a) The controlled substance is being provided to a patient who is enrolled in that hospice program, and</p> <p>(b) The prescription is transmitted to the pharmacy by a means that is not facilitated by the internet.</p> |

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| | | | <p>(6) The physician is the medical director of an institutional facility, as that term is defined in rule 4729-17-01 of the Administrative Code, and both of the following conditions are met:</p> <p>(a) The controlled substance is being provided to a person who has been admitted as an inpatient to or is a resident of an institutional facility, and</p> <p>(b) The prescription is transmitted to the pharmacy by a means that is not facilitated by the internet.</p> <p>(E) Nothing in this rule shall be construed to imply that one in-person physician examination demonstrates that a prescription has been issued for a legitimate medical purpose within the course of professional practice.</p> <p>(F) A violation of any provision of this rule, as determined by the board, shall constitute any or all of the following:</p> <p>(1) "Failure to maintain minimal standards applicable to the selection or administration of drugs," as that clause is used in division (B)(2) of section 4731.22 of the Revised Code;</p> <p>(2) "Selling, prescribing, giving away, or administering drugs for other than legal and legitimate therapeutic purposes," as that clause is used in division (B)(3) of section 4731.22 of the Revised Code; or</p> <p>(3) "A departure from or the failure to conform to minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established," as that clause is used in division (B)(6) of section 4731.22 of the Revised Code.</p> <p>(G) For purposes of this rule, "informed consent" means a process of communication between a patient and physician discussing the risks and benefits of, and alternatives to, treatment through a remote evaluation that results in the patient's agreement or signed authorization to be treated through an evaluation conducted through appropriate technology when the physician is in a location remote from the patient.</p> <p>(H) This rule shall not apply to any prescribing situations specifically authorized by the Revised Code or Administrative Code.</p> <p>(I) For purposes of this rule, "patient" means a person for whom the physician provides healthcare services or the person's representative.</p> |
| <p>Oklahoma</p> | <p>O.A.C. 478.1:59</p> | <p>Yes</p> | <p>A. Unless otherwise prohibited by law, a valid physician-patient relationship may be established by an allopathic or osteopathic physician with a patient located in this state through telemedicine, provided that the physician:</p> <ol style="list-style-type: none"> 1. Holds a license to practice medicine in this state; 2. Confirms with the patient the patient's identity and physical location; and 3. Provides the patient with the treating physician's identity and professional credentials. <p>B. Telemedicine and store and forward technology encounters shall comply with HIPAA and ensure that all patient communications and records are secure and confidential.</p> <p>C. Telemedicine encounters and encounters involving store and forward technologies in this state shall not be used to establish a valid physician-patient relationship for the purpose of prescribing opiates, synthetic opiates, semisynthetic opiates, benzodiazepine or carisprodol, but may be used to prescribe opioid antagonists or partial agonists pursuant to Sections 1-2506.1 and 1-2506.2 of Title 63 of the Oklahoma Statutes.</p> |

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| | <p>O.A.C. 435:10-7-4</p> <p>O.A.C. 435:10-7-13</p> | | <p>D. A physician-patient relationship shall not be created solely based on the receipt of patient health information by a physician. The duties and obligations created by a physician-patient relationship shall not apply until the physician affirmatively:</p> <ol style="list-style-type: none"> 1. Undertakes to diagnose and treat the patient; or 2. Participates in the diagnosis and treatment of the patient. <p>Establishing a physician/patient relationship; exceptions</p> <p>A physician/patient relationship is established when a physician agrees by direct or indirect contact with a patient to diagnose or treat any condition, illness or disability presented by a patient to that physician, whether or not such a presenting complaint is considered a disease by the general medical community.</p> <p><i>The physician/patient relationship shall include a medically appropriate, timely-scheduled, face-to-face encounter with the patient, subject to any supervisory responsibilities established elsewhere in these rules except the following providers are not subject to the face-to-face encounter: [...]</i></p> <p><i>(4)Telemedicine physicians who meet the criteria set out in OAC 435:10-7-13 of this Subchapter.</i></p> <p>Telemedicine</p> <ol style="list-style-type: none"> a. Physicians treating patients in Oklahoma through telemedicine must be fully licensed to practice medicine in Oklahoma; and b. Must practice telemedicine in compliance with standards established in these rules. <i>In order to be exempt from the face-to-face meeting requirement set out in these rules, the telemedicine encounter must meet the following:</i> <ol style="list-style-type: none"> 1. Telemedicine encounters. Telemedicine encounters require the distant site physician to perform an exam of a patient at a separate, remote originating site location. In order to accomplish this, and if the distant site physician deems it to be medically necessary, a licensed healthcare provider trained in the use of the equipment may be utilized at the originating site to “present” the patient, manage the cameras, and perform any physical activities to successfully complete the exam. A medical record must be kept and be accessible at both the distant and originating sites, preferably a shared Electronic Medical Record, that is full and complete and meets the standards as a valid medical record. There should be provisions for appropriate follow up care equivalent to that available to face-to face patients. <i>The information available to the distant site physician for the medical problem to be addressed must be equivalent in scope and quality to what would be obtained with an original or follow-up face-to-face encounter and must meet all applicable standards of care for that medical problem including the documentation of a history, a physical exam, the ordering of any diagnostic tests, making a diagnosis and initiating a treatment plan with appropriate discussion and informed consent.</i> 2. Equipment and technical standards |

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| | <p>O.A.C. 478:59</p> <p>O.A.C. 435:10-1-4</p> | | <p>A. Telemedicine technology must be sufficient to provide the same information to the provider as if the exam has been performed face-to-face.</p> <p>B. Telemedicine encounters must comply with HIPAA security measures to ensure that all patient communications and records are secure and remain confidential.</p> <p>3. Technology guidelines</p> <p>A. Audio and video equipment must permit interactive, real-time communications.</p> <p>B. Technology must be HIPAA compliant</p> <p>Definitions</p> <p>“Store and forward technologies” – The transmission of a patient's medical information from an originating site to the physician or practitioner at the distant site; provided, photographs visualized by a telecommunications system shall be specific to the patient's medical condition and adequate for furnishing or confirming a diagnosis or treatment plan;</p> <p>“Telemedicine” – The practice of health care delivery, diagnosis, consultation, evaluation and treatment, transfer of medical data or exchange of medical education information by means of a two-way, real-time interactive communication, not to exclude store and forward technologies, between a patient and a physician with access to and reviewing the patient's relevant clinical information prior to the telemedicine visit.</p> <p>“Telemedicine” and “store and forward technologies” shall not include consultations provided by telephone audio-only communication, electronic mail, text message, instant messaging conversation, website questionnaire, non-secure video conference or facsimile machine.</p> <p>“Physician/patient relationship” – A relationship established when a physician agrees by direct or indirect contact with a patient to diagnose or treat any condition, illness or disability presented by a patient to that physician, whether or not such a presenting complaint is considered a disease by the general medical community. <i>The physician/patient relationship shall include a medically appropriate, timely-scheduled, actual face-to-face encounter with the patient, subject to any supervisory responsibilities established elsewhere in these rules except as allowed in OAC 435:10-7-12 in this Subchapter.</i> The act of scheduling an appointment, whether by a physician or by a physician’s agent, for a future evaluation will not in and of itself be considered to establish a physician/patient relationship.</p> <p>“Telemedicine” – 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. Telemedicine is not a consultation provided by telephone or facsimile machine. <i>This definition excludes phone or Internet</i></p> |

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| | | | <i>contact or prescribing and other forms of communication, such as web-based video, that might occur between parties that does not meet the equipment requirements as specified in OAC 435:10-7-13 and therefore requires an actual face-to-face encounter. Telemedicine physicians who meet the requirements of OAC 435:10-7-13 do not require a face to face encounter.</i> |
| Oregon | Oregon Admin. Rules Comp. 847-025-0000 OMB Statement of Philosophy | Yes (OR’s rules address the practice of medicine across state lines) | <p>Preamble</p> <p>(2) A physician granted a license to practice medicine <i>across state lines</i> has the same duties and responsibilities and is subject to the same penalties and sanctions as any other physician licensed under ORS Chapter 677, including but not limited to the following: (a) <i>The physician shall establish a physician-patient relationship</i>; (b) The physician shall make a judgment based on some type of objective criteria upon which to diagnose, treat, correct or prescribe; (c) The physician shall engage in all necessary practices that are in the best interest of the patient; and (d) The physician shall refrain from writing prescriptions for medication resulting only from a sale or consultation over the Internet.</p> <p>Telemedicine</p> <p>The Oregon Medical Board considers the full use of the patient history, physical examination, and additional laboratory or other technological data all important components of the physician’s evaluation to arrive at diagnosis and to develop therapeutic plans. In those circumstances when one or more of those methods are not used in the patient’s evaluation, the physician is held to the same standard of care for the patient’s outcome.</p> |
| Pennsylvania | N/A | Yes (Not prohibited) | Pennsylvania statute does not address formation of the patient-physician relationship. |
| Rhode Island | Rhode Island Board of Medical Licensure and Discipline | Yes | <p>Section Three: An Appropriate Physician-Patient Relationship</p> <p>The health and well-being of patients depends on a collaborative effort between physician and patient.</p> <p>This relationship is complex and based on the mutual understanding between physician and patient of the shared responsibility for the patient's health care. The physician should recognize that the patient-physician relationship in Telemedicine and Internet medicine is inherently different. It is possible, if not</p> |

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| | <p><u>Guidelines for the Appropriate Use of Telemedicine and the Internet in Medical Practice</u></p> | | <p>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 their evaluation and management of the patient.</p> <p><i>The BMLD defines the beginning of the physician-patient relationship as being clearly established when the physician agrees to undertake 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 patient.</i></p> <p>The physician-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the BMLD that physicians 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 physician and 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 which is documented in the medical record. Failure to make necessary referrals or progressions to treatments without doing so constitutes unprofessional conduct.</p> <p>Section Five: Guidelines for the Appropriate Use of the Internet in Medical Practice</p> <p><i>Evaluation of the Patient.</i> Evaluating a patient via Telemedicine or in-person is a dynamic, interactive experience which 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 contra-indications 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 utilizing telemedicine and the internet appropriately to come to a reasonable diagnostic conclusion. It is understood that a physical evaluation done via Telemedicine or the internet is inherently different than in the traditional in-person encounter.</p> <p>Definitions</p> <p><i>Telemedicine</i> - The delivery of clinical health care services by means of real time two-way electronic audiovisual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health care delivery, which facilitate the assessment, diagnosis, treatment, and care management of a patient's health care while such patient is at an originating site and the health care provider is at a distant site, consistent with applicable federal laws and regulations. Telemedicine does not include an audio-only telephone conversation, email message or facsimile transmission between the provider and patient, or an automated computer program used to diagnose and/or treat ocular or refractive conditions.</p> |

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| | | | <i>Store-and-forward</i> – The technology used to enable the transmission of a patient's medical information from an originating site to the health care provider at the distant site without the patient being present. |
| South Carolina | South Carolina Admin. Code 40-47-37 | Yes | <p>(A) A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall adhere to the same standard of care as a licensee employing more traditional in-person medical care and be evaluated according to the standard of care applicable to the licensee's area of specialty. A licensee shall not establish a physician-patient relationship by telemedicine pursuant to Section 40-47-113(B) for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis. The failure to conform to the appropriate standard of care is considered unprofessional conduct under Section 4047110(B)(9).</p> <p>(B) A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 404720(52) shall generate and maintain medical records for each patient using such telemedicine services in compliance with any applicable state and federal laws, rules, and regulations, including this chapter, HIPAA, and HITECH. Such records shall be accessible to other practitioners and to the patient in a timely fashion when lawfully requested to do so by the patient or by a lawfully designated representative of the patient.</p> <p>(C) In addition to those requirements set forth in subsections (A) and (B), a licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 404720(52) shall:</p> <ol style="list-style-type: none"> (1) adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing such information upon request of the board; (2) provide an appropriate evaluation prior to diagnosing and/or treating the patient, which need not be done in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care; provided, that evaluations in which a licensee is at a distance from the patient, but a practitioner is able to provide various physical findings the licensee needs to complete an adequate assessment, is permitted; further, provided, that a simple questionnaire without an appropriate evaluation is prohibited; (3) verify the identity and location of the patient and be prepared to inform the patient of the licensee's name, location, and professional credentials; (4) establish a diagnosis through the use of accepted medical practices, which may include patient history, mental status evaluation, physical examination, and appropriate diagnostic and laboratory testing in conformity with the applicable standard of care; (5) ensure the availability of appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care practitioners, to be distributed to other treating health care practitioners only with patient consent and in accordance with applicable law and regulation; (6) prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II and Schedule III prescriptions are not permitted except for those Schedule II and Schedule III medications specifically authorized by the board, which may include, but not be limited to, Schedule II-nonnarcotic and Schedule III-nonnarcotic medications; further, provided, that licensees prescribing controlled not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44; further, provided, that prescribing of lifestyle medications including, but not limited to, erectile dysfunction drugs is not permitted unless approved by the board; further, provided, that |

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| | <p>South Carolina Admin. Code 40-47-113</p> <p>South Carolina Board of Medical Examiners Telemedicine</p> | | <p>prescribing abortion-inducing drugs is not permitted; as used in this article 'abortion-inducing drug' means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child. This includes off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion, such as misoprostol (Cytotec), and methotrexate. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indications including, but not limited to, chemotherapeutic agents or diagnostic drugs. Use of such drugs to induce abortion is also known as 'medical', 'drug-induced', and/or 'chemical abortion';</p> <p>(7) maintain a complete record of the patient's care according to prevailing medical record standards that reflects an appropriate evaluation of the patient's presenting symptoms; provided that relevant components of the telemedicine interaction be documented as with any other encounter;</p> <p>(8) maintain the patient's records' confidentiality and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telemedicine shall be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing via traditional means; further, provided, that if a patient has a primary care provider and a telemedicine provider for the same ailment, then the primary care provider's medical record and the telemedicine provider's record constitute one complete medical record;</p> <p>(9) be licensed to practice medicine in South Carolina; provided, however, a licensee need not reside in South Carolina so long as he or she has a valid, current South Carolina medical license; further, provided, that a licensee residing in South Carolina who intends to practice medicine via telemedicine to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards; and</p> <p>(10) discuss with the patient the value of having a primary care medical home and, if the patient requests, provide assistance in identifying available options for a primary care medical home.</p> <p>Prescribing authority, practice of telemedicine. Notwithstanding subsection (A), a licensee may prescribe for a patient whom the licensee has not personally examined under certain circumstances including, but not limited to, writing admission orders for a newly hospitalized patient, prescribing for a patient of another licensee for whom the prescriber is taking call, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, continuing medication on a short-term basis for a new patient before the patient's first appointment, or prescribing for a patient for whom the licensee has established a physician-patient relationship solely via telemedicine so long as the licensee complies with Section 40-47-37 of this act.</p> <p>Licensee-Patient Relationship</p> <p>The Board stresses the importance of proper patient identification in the context of the telemedicine encounter. Failure to verify the patient's identity may lead to fraudulent activity or the improper disclosure of confidential patient information. The licensee using telemedicine must verify the identity and location of the patient and must be prepared to inform the patient of the licensee's name, location and professional credentials. <i>A diagnosis must be established through the use of accepted medical practices, i.e., a patient history, mental status evaluation, physical examination and</i></p> |

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| | <p>Advisory Opinion</p> <p>SCAC 40-47-20(52)</p> | | <p><i>appropriate diagnostic and laboratory testing.</i> Licensees using telemedicine must 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.</p> <p>Evaluations and Examinations</p> <p>Licensees using telemedicine technologies to provide care to patients located in South Carolina must provide an appropriate evaluation prior to diagnosing and/or treating the patient. <i>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.</i></p> <p>Other evaluations may also be considered appropriate if the licensee is at a distance from the patient, but a licensed health care professional is able to provide various physical findings that the licensee needs to complete an adequate assessment. On the other hand, a simple questionnaire without an appropriate evaluation may be a violation of law and/or subject the licensee to discipline by the Board.</p> <p>Definitions</p> <p><i>Telemedicine</i> – The practice of medicine using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening practitioner.</p> |
| South Dakota | N/A | Yes (Not prohibited) | <p>South Dakota statute does not address formation of the patient-physician relationship. The telemedicine statute is SD Codified Laws 36-4-41.</p> <p>36-4-41. Practice of medicine or osteopathy in South Dakota while located outside of state. Any nonresident physician or osteopath who, 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 clinic located in this state that provides health services, a health maintenance organization, a preferred provider organization, or a health care facility licensed under chapter 34-12, is engaged in the practice of medicine or osteopathy in this state. Consultation between a nonresident physician or osteopath and a licensee under this chapter is governed by § 36-2-9.</p> |
| Tennessee | Tenn. Code Ann. 63-1-155(b) | Yes | <p>A healthcare provider-patient relationship with respect to telemedicine or telehealth is created by mutual consent and mutual communication, except in an emergency, between the patient and the provider. The consent by the patient may be expressed or implied consent; however, the provider-patient relationship is not created simply by the receipt of patient health information by a provider unless a prior provider-patient relationship exists. The duties and obligations created by the relationship do not arise until the healthcare provider: (1) Affirmatively undertakes to diagnose and treat the patient; or (2) Affirmatively participates in the diagnosis and treatment.</p> |

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| | <p>Rules of the Tennessee Board of Medical Examiners 0880-02.16</p> | | <p>(1)(d) Physician-patient relationship – A physician-patient relationship exists when a physician serves a patient’s medical needs whether or not there has been an encounter in person between the physician and patient.</p> <p>(6) Notwithstanding the requirements of Rule 0880-02-.14(7), a physician licensed in Tennessee may engage in the practice of telemedicine under the following circumstances:</p> <p>(a) Except as provided under paragraphs seven (7) and eight (8) of this rule, the patient encounter to establish or maintain the physician-patient relationship via telemedicine between the physician in a remote location and the patient in Tennessee may occur with or without the use of a facilitator so long as such encounter is consistent with parts 1 and 2 of this Rule:</p> <p>1. If no facilitator is present:</p> <p>(i) The patient must utilize adequately sophisticated technology to enable the remote provider to verify the patient’s identity and location with an appropriate level of confidence; and</p> <p>(ii) The patient must transmit all relevant health information at the level of store-and-forward technology or secure video conferencing; and</p> <p>(iii) The remote provider must disclose his or her name, current and primary practice location, medical degree and recognized specialty area, if any, and in accordance with T.C.A. § 63-1-109.</p> <p>2. If a facilitator is present:</p> <p>(i) The facilitator must personally verify the identity of the patient; however, all relevant health information must be transmitted to the remote provider using at least the level of store-and-forward technology. The facilitator and the patient may interact with the provider at the remote location via secure video conferencing or store-and-forward technology; and</p> <p>(ii) The facilitator must identify themselves, their role, and their title to the patient and the remote physician; and</p> <p>(iii) The remote provider must disclose his or her name, current and primary practice location, medical degree and recognized specialty area, if any, and all additional information required pursuant to T.C.A. § 63-1-109.</p> <p>(b) For patient encounters conducted via telemedicine, the physician should have appropriate patient record(s) or be able to obtain such information during the telemedicine encounter.</p> <p>(c) The physician engaging in telemedicine is responsible for ensuring that the medical record contains all pertinent data and information gleaned from the encounter. Any physician conducting a patient encounter via telemedicine must so document in the patient record and must state the technology used. All records for Tennessee patients are subject to inspection pursuant to T.C.A. § 63-1-117.</p> |

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| | <p>Tenn. Code Ann. 63-1-155 (osteopathic board rule)</p> <p>Tenn. Code Ann. 63-1-155(a)(2) and . 63-1-155</p> <p>Tenn. Code 56-7-1002(6)</p> <p>Rules of the Tennessee Board of Medical Examiners 0880-02(1)</p> | | <p>(d) If the information transmitted through electronic or other means as part of a patient’s encounter is not of sufficient quality or does not contain adequate information for the physician to form an opinion, the physician must declare they cannot form an opinion to make an adequate diagnosis and must request direct referral for inspection and actual physical examination, request additional data, or recommend the patient be evaluated by the patient’s primary physician or other local health care provider</p> <p>(7) A physician licensed by the Board may, if requested to do so by another physician licensed by the Board, engage in medical interpretation as defined in these rules and render an opinion based on data which is transmitted electronically. In such cases, the physician providing the medical interpretation need not examine the patient and need not have the complete medical record accessible, unless the interpreting physician believes that additional information is necessary. Any opinion rendered by such interpreting physician must be reduced to writing which includes the name and electronic signature of the interpreting physician.</p> <p>(8) No patient seeking care via telemedicine who is under the age of eighteen (18) years of age can be treated unless there is a facilitator present, except as otherwise authorized by law.</p> <p>(b) For the purposes of this section, <i>a healthcare provider-patient relationship with respect to telemedicine or telehealth is created by mutual consent and mutual communication</i>, except in an emergency, between the patient and the provider. The consent by the patient may be expressed or implied consent; however, the provider-patient relationship is not created simply by the receipt of patient health information by a provider unless a prior provider-patient relationship exists. The duties and obligations created by the relationship do not arise until the healthcare provider: (1) Affirmatively undertakes to diagnose and treat the patient; or (2) Affirmatively participates in the diagnosis and treatment.</p> <p>Definitions</p> <p><i>Telehealth/Telemedicine</i> – Notwithstanding any restriction imposed by § 56-7-1002, the use of real-time audio, video, or other electronic media and telecommunications technologies that enable interaction between the healthcare provider and the patient, or also store-and-forward telemedicine services, as defined by § 56-7-1002(a), for the purpose of diagnosis, consultation, or treatment of a patient in another location where there may be no in-person exchange.</p> <p><i>Telehealth</i> – (A) Means the use of real-time audio, video, or other electronic media and telecommunications technologies that enable interaction between the healthcare services provider and the patient, or also store-and-forward telemedicine services, for the purpose of diagnosis, consultation, or treatment of a patient in another location where there may be no in-person exchange, within the scope of practice of the healthcare services provider;.</p> <p><i>Telemedicine</i> – As used in this rule, the practice of medicine across state lines (telemedicine) means: (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</p> |

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| | | | 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. |
| Texas | Texas Admin. Cod 174.6 Occupations Code 111.004 | Yes | <p>Minimum Standards for the Provision of Telemedicine Medical Services</p> <p>(a) A health professional providing a health care service or procedure as a telemedicine medical service:</p> <ul style="list-style-type: none"> (1) is subject to the same standard of care that would apply to the provision of the same health care service or procedures in an in person setting; (2) must establish a practitioner-patient relationship; and (3) must maintain complete and accurate medical records as set out in §165.1 of this title (relating to Medical Records). <p>(b) Adequate measures must be implemented to ensure that patient communications, recordings and records are protected consistent with Federal and State privacy laws.</p> <p>Practitioner patient relationship for telemedicine medical services</p> <p>(a) For purposes of Section 562.056, a valid practitioner-patient relationship is present between a practitioner providing a telemedicine medical service and a patient receiving the telemedicine medical service as long as the practitioner complies with the standard of care described in Section 111.007 and the practitioner:</p> <ul style="list-style-type: none"> (1) has a preexisting practitioner-patient relationship with the patient established in accordance with rules adopted under Section 111.006; (2) communicates, regardless of the method of communication, with the patient pursuant to a call coverage agreement established in accordance with Texas Medical Board rules with a physician requesting coverage of medical care for the patient; or (3) provides the telemedicine medical services through the use of one of the following methods, as long as the practitioner complies with the follow-up requirements in Subsection (b), and the method allows the practitioner to have access to, and the practitioner uses, the relevant clinical information that would be required in accordance with the standard of care described in Section 111.007: <ul style="list-style-type: none"> (A) synchronous audiovisual interaction between the practitioner and the patient in another location; (B) asynchronous store and forward technology, including asynchronous store and forward technology in conjunction with synchronous audio interaction between the practitioner and the patient in another location, as long as the practitioner uses clinical information from: <ul style="list-style-type: none"> (i) clinically relevant photographic or video images, including diagnostic images; or (ii) the patient's relevant medical records, such as the relevant medical history, laboratory and pathology results, and prescriptive histories; or (C) another form of audiovisual telecommunication technology that allows the practitioner to comply with the standard of care described in Section 111.007. |

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| | <p>Occupations Code 562.056</p> <p>Occupations Code 111.006</p> <p>Occupations Code 111.008</p> <p>TAC 174.2</p> | | <p>(b) A practitioner who provides telemedicine medical services to a patient as described in Subsection (a)(3) shall:</p> <p>(1) provide the patient with guidance on appropriate follow-up care; and</p> <p>(2) if the patient consents and the patient has a primary care physician, provide to the patient's primary care physician within 72 hours after the practitioner provides the services to the patient a medical record or other report containing an explanation of the treatment provided by the practitioner to the patient and the practitioner's evaluation, analysis, or diagnosis, as appropriate, of the patient's condition.</p> <p>(c) Notwithstanding any other provision of this section, a practitioner-patient relationship is not present if a practitioner prescribes an abortifacient or any other drug or device that terminates a pregnancy.</p> <p>(c) For purposes of this section, a valid practitioner-patient relationship is present between a practitioner providing telemedicine medical services and the patient receiving the telemedicine medical services if the practitioner has complied with the requirements for establishing such a relationship in accordance with Section 111.005.</p> <p>Standard of care for telemedicine medical services and telehealth services</p> <p>(a) A health professional providing a health care service or procedure as a telemedicine medical service or a telehealth service is subject to the standard of care that would apply to the provision of the same health care service or procedure in an in-person setting.</p> <p>(b) An agency with regulatory authority over a health professional may not adopt rules pertaining to telemedicine medical services or telehealth services that would impose a higher standard of care than the standard described in Subsection (a).</p> <p>Mental health services excluded</p> <p>This chapter does not apply to mental health services.</p> <p>Definitions</p> <p><i>Prescription</i> – Any medication(s) that require a prescription issued to the ultimate user as the result of a telemedicine medical service, by:</p> <p>(A) a Texas licensed physician, and if the prescription is for a controlled substance, the physician must have a current valid DEA registration number; or</p> <p>(B) issued by a Texas licensed practitioner, acting under the delegated authority of a Texas licensed physician, and in accordance with the required prescriptive authority agreement or other permissible forms of delegation as set out by Chapter 157 of the Medical Practice Act, and, if the prescription is for a controlled substance, the licensed practitioner must have a current, valid DEA registration. In addition, if the prescription is for a controlled substance listed in schedule II, the licensed practitioners may only use the official prescription forms issued with their name, address, phone number, and DEA numbers, and the delegating physician's name and DEA number.</p> |

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| | Occupations Code 111.001 | | <p><i>Store and forward technology</i> – Technology that stores and transmits or grants access to a person's clinical information for review by a health professional at a different physical location than the person.</p> <p><i>Telehealth service</i> – A health service, other than a telemedicine medical service, delivered by a health professional licensed, certified, or otherwise entitled to practice in this state and acting within the scope of the health professional's license, certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology.</p> <p><i>Telemedicine medical service</i> – A health care service delivered by a physician licensed in this state, or a health professional acting under the delegation and supervision of a physician licensed in this state, and acting within the scope of the physician's or health professional's license to a patient at a different physical location than the physician or health professional using telecommunications or information technology.</p> |
| Utah | Utah Code Ann. 26-60-101 | Yes | <p>Scope of telehealth practice</p> <p>(1) A provider offering telehealth services shall:</p> <p>(a) at all times: (i) act within the scope of the provider's license; (ii) be held to the same standards of practice as those applicable in traditional health care settings;</p> <p>(b) in accordance with the Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after (i) obtaining from the patient or another provider the patient's relevant clinical history; and (ii) documenting the patient's relevant clinical history and current symptoms;</p> <p>(c) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;</p> <p>(d) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate referrals when medically indicated; and</p> <p>(e) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records.</p> <p>(2) A provider may not offer telehealth services if: (a) the provider is not in compliance with applicable laws, rules, and regulations regarding the provider's licensed practice; or (b) the provider's license is not active and in good standing.</p> <p>Definitions</p> |

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| | | | <p><i>Asynchronous store and forward transfer</i> – The transmission of a patient’s health care information from an originating site to a provider at a distant site.</p> <p><i>Distant site</i> – The physical location of a provider delivering telemedicine services.</p> <p><i>Originating site</i> – The physical location of the patient receiving telemedicine services.</p> <p><i>Synchronous interaction</i> – Real-time communication through interactive technology that enables a provider at a distant site and a patient at an originating site to interact simultaneously through two-way audio and video transmission.</p> <p><i>Synchronous store and forward</i> –Real-time communication through interactive technology that enables a provider at a distant site and a patient at an originating site to interact simultaneously through two-way audio and video communication.</p> <p><i>Telehealth services</i> – The transmission of health-related services or information through the use of electronic communication or information technology.</p> <p><i>Telemedicine services</i> – Telehealth services (a) including: (i) clinical care; (ii) health education; (iii) health administration; (iv) home health; or (v) facilitation of self-managed care and caregiver support; and (b) provided by a provider to a patient through a method of communication that (i)(A) uses asynchronous store and forward transfer; or (B) uses synchronous interaction; and (ii) meets industry privacy and security standards, including compliance with HIPAA and the HITECH Act.</p> |
| <p>Vermont</p> | <p>Vermont Board of Medical Practice</p> <p>Policy on the Appropriate Use of Telemedicine</p> | <p>Yes</p> | <p>Section Two. Establishing the Physician-Patient Relationship</p> <p>The health and well-being of patients depends upon a collaborative effort between the physician and patient. The relationship between the physician and patient is complex and is based on the mutual understanding of the shared responsibility for the patient’s health care. Although the Board recognizes that it may be difficult in some circumstances to precisely define the beginning of the physician-patient relationship, particularly when the physician and patient are in separate locations, <i>in most cases formation of the relationship starts when an individual with a health related matter seeks assistance from a physician who may provide assistance. The relationship is fully established when, through words or actions, the physician agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an encounter in person between the physician (or other appropriately supervised health care practitioner) and patient.</i></p> <p>The physician-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that physicians recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a physician-patient relationship. Use of electronic means to</p> |

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| | | | <p>provide medical care does not diminish the obligations that arise upon formation of the physician-patient relationship. Vermont law makes it unprofessional conduct to prescribe or dispense medication, furnish medical services or to provide prescription-only devices without taking necessary steps to verify the patient’s identity, establish a documented diagnosis through the use of accepted medical practices, and maintain an appropriate record. 26 V.S.A. § 1354(a)(33). Also, in that Vermont recognizes the requirement that a physician must be licensed in the jurisdiction where the patient is located at the time that medical care is delivered, another inherent obligation is to determine the location of a patient when a physician is rendering services through electronic means in order to confirm appropriate licensure. Likewise, it is an inherent obligation for a physician to disclose to the patient the physician’s identity and credentials, regardless of how care is delivered. Another obligation that applies equally when care is provided through telemedicine is the need to obtain informed consent after all appropriate disclosures, including any special disclosures that might arise because of the use of telemedicine technologies.</p> <p>Based upon the foregoing concepts relating to the physician-patient relationship and licensure requirements, a physician is discouraged from rendering medical advice and/or care using telemedicine technologies without (1) fully verifying and authenticating the location and, to the extent possible, identifying the requesting patient; (2) disclosing and validating the provider’s identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine technologies. An appropriate physician-patient relationship has not been established when the identity of the physician may be unknown to the patient. Where appropriate, a patient must be able to select an identified physician for telemedicine services, not be assigned to a physician at random, and have access to follow-on care.</p> <p>Section Four. Guidelines for the Appropriate Use of Telemedicine Technologies in Medical Practice</p> <p>Establishment of a Physician-Patient Relationship: 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 identified in Section Two, and, <i>while each circumstance is unique, such physician-patient relationships may be established using telemedicine technologies provided the standard of care is met.</i></p> <p>Definitions</p> <p><i>Telemedicine</i> – The practice of medicine using electronic communications, information technology or other means between a licensee in one location, and a patient in another location with or without an intervening healthcare provider. Generally, telemedicine is not an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It typically involves the application of secure videoconferencing or store and forward technology to provide or support healthcare delivery by replicating the interaction of a traditional, encounter in person between a provider and a patient.</p> |
| Virginia | | Yes | <p>Section One: Preamble.</p> |

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| | <p>Virginia Board of Medicine</p> <p>Guidance Document 85-12: Telemedicine</p> | | <p>For clarity, a practitioner using telemedicine services in the provision of medical services to a patient (whether existing or new) must take appropriate steps to establish the practitioner-patient relationship as defined in Virginia Code § 54.1-3303 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.</p> <p>Section Three: Establishing the Practitioner-Patient Relationship. The practitioner-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship. Where an existing practitioner-patient relationship is not present, a practitioner must take appropriate steps to establish a practitioner-patient relationship consistent with the guidelines identified in this document, with Virginia law, and with any other applicable law. While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.</p> <p>Specifically, Virginia Code § 54.1-3303(A) provides the requirements to establish a practitioner-patient relationship.</p> <p>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.</p> <p>Section Four: Guidelines for the Appropriate Use of Telemedicine Services.</p> <p><u>Evaluation and Treatment of the Patient.</u> A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which treatment includes the issuance of prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional, in-person encounters. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.</p> <p>Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.</p> |

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| | Code of Virginia 54.1-3303 | | <p>A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.</p> <p>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. A practitioner who performs or has performed an appropriate examination of the patient required pursuant to clause (iii), either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-patient relationship, <i>may prescribe Schedule II through VI controlled substances to the patient</i>, provided that the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.</p> <p>For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, <i>a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met:</i> (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.</p> |

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| | Va. Code 38.2-3418.16 | | <p>Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.</p> <p>Definitions</p> <p><i>Telemedicine</i> – The use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient’s diagnosis or treatment. “Telemedicine services” does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.</p> |
| Washington | MD2014-03: Telemedicine Guidelines | Yes | <p>B. Standard of Care.</p> <p>(1) Practitioner-Patient Relationship: When practicing Telemedicine, a practitioner must establish a practitioner-patient relationship with the patient. <i>The absence of in-person contact does not eliminate this requirement.</i> 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.</p> <p>(3) Patient Evaluation: 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.</p> <p>Definitions</p> <p><i>Practitioner-Patient Relationship</i> – The 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. <i>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.</i> The parameters of the practitioner-patient relationship for Telemedicine should mirror those that would be expected for similar in-person medical encounters.*</p> <p><i>Telemedicine</i> – The practice of medicine using enabling technology between a practitioner 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.</p> |

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| | <p>RCW 48.43.735</p> | | <p><i>Distant site</i> – The site at which a physician or other licensed provider, delivering a professional service, is physically located at the time the service is provided through telemedicine;</p> <p><i>Originating site</i> – The physical location of a patient receiving health care services through telemedicine;</p> <p><i>Store and forward technology</i> – Use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site which results in medical diagnosis and management of the covered person, and does not include the use of audio-only telephone, facsimile, or email; and</p> <p><i>Telemedicine</i> – 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.</p> |
| <p>West Virginia</p> | <p>WV Medical Practice Act § 30-3-13a(c), 301412d(c)</p> | <p>Yes</p> | <p>Physician-Patient or Podiatrist-Patient Relationship Through Telemedicine Encounter</p> <p>(1) A physician-patient or podiatrist-patient relationship <i>may not be established through</i>:</p> <p>(A) Audio-only communication;</p> <p>(B) Text-based communications such as email, internet questionnaires, text-based messaging or other written forms of communication; or</p> <p>(C) Any combination thereof.</p> <p>(2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, <i>a physician-patient or podiatrist-patient relationship may only be established</i>:</p> <p>(A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient or podiatrist-patient encounter; or</p> <p>(B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.</p> <p>(3) Once a physician-patient or podiatrist-patient relationship has been established, either through an in-person encounter or in accordance with subsection (c)(2), the physician or podiatrist may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.</p> |

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| | <p>WV Medical Practice Act § 30-3-13a(d), 30-14-12d(d)</p> <p>WV Medical Practice Act § 30-3-13a(e), 30-14-12d(e)</p> <p>WV Medical Practice Act § 30-3-13a(g), 30-14-12d(g)</p> | | <p>Telemedicine Practice</p> <p>A physician or podiatrist using telemedicine technologies to practice medicine or podiatry shall:</p> <ol style="list-style-type: none"> (1) Verify the identity and location of the patient; (2) Provide the patient with confirmation of the identity and qualifications of the physician or podiatrist; (3) Provide the patient with the physical location and contact information of the physician; (4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms to the standard of care; (5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine or podiatry is to be rendered; (6) Obtain from the patient appropriate consent for the use of telemedicine technologies; (7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation; and (8) Create and maintain healthcare records for the patient which justify the course of treatment and which verify compliance with the requirements of this section, (9) The requirements of subdivisions (d)(1)-(8) in this section do not apply to the practice of pathology or radiology medicine through store and forward telemedicine. <p>Standard of Care</p> <p>The practice of medicine or podiatry provided via telemedicine technologies, including the establishment of a physician-patient or podiatrist-patient relationship and issuing a prescription via electronic means as part of a telemedicine encounter, are subject to the same standard of care, professional practice requirements and scope of practice limitations as traditional in-person physician-patient or podiatrist-patient encounters. Treatment, including issuing a prescription, based solely on an online questionnaire, does not constitute an acceptable standard of care.</p> <p>Prescribing Limitations</p> <p>(1) A physician or podiatrist who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act: Provided, That the prescribing limitations do not apply when a physician is providing treatment to patients who are minors , or if eighteen years of age or older, who are enrolled in a primary or secondary education program who are diagnosed with intellectual or developmental disabilities, neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury in accordance with guidelines as set forth by organizations such as the American Psychiatric Association, the American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics: Provided, however, That the physician must maintain records supporting the diagnosis and the continued need of treatment.</p> |

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| | <p>WV Medical Practice Act § 30-3-13a(h), 30-14-12d(h)</p> <p>WV Medical Practice Act § 30-3-13a(j), 30-14-12d(j)</p> <p>State of WV Board of Medicine Position Statement on Telemedicine</p> | | <p>(2) A physician or podiatrist may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.</p> <p>(3) A physician or health care provider may not prescribe any drug with the intent of causing an abortion. The term “abortion” has the same meaning ascribed to it in section two, article two, chapter sixteen of this code.</p> <p>Exceptions</p> <p>This article does not prohibit the use of audio-only or text-based communications by a physician or podiatrist who is:</p> <p>(1) Responding to call for patients with whom a physician-patient or podiatrist-patient relationship has been established through an in-person encounter by the physician or podiatrist;</p> <p>(2) Providing cross coverage for a physician or podiatrist who has established a physician-patient or podiatrist-patient relationship with the patient through an in-person encounter; or</p> <p>(3) Providing medical assistance in the event of an emergency situation.</p> <p>Preserving Traditional Physician-Patient or Podiatrist-Patient Relationship</p> <p>Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities incident to the physician-patient or podiatrist-patient relationship, nor is it meant or intended to change in any way the personal character of the physician-patient or podiatrist-patient relationship. This section does not alter the scope of practice of any healthcare provider or authorize the delivery of healthcare services in a setting, or in a manner, not otherwise authorized by law.</p> <p>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.</p> <p>Section Two. Establishing the Physician-Patient Relationship</p> <p>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.</p> |

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| | <p>WV Board of Osteopathic Medicine Telemedicine Policy</p> | | <p>The physician-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that physicians recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a physician-patient relationship. A physician is discouraged from rendering medical advice and/or care using telemedicine technologies without:</p> <ul style="list-style-type: none"> (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 Ifom requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine technologies. <p>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.</p> <p>Establishment of a Physician-Patient Relationship</p> <p>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 identified in Section Two, and, while each circumstance is unique, <i>such physician-patient relationships may be established using telemedicine technologies provided the standard of care is met.</i></p> <p>West Virginia Board of Osteopathic Medicine Telemedicine Policy</p> <p>An osteopathic physician or physician assistant using telemedicine technologies to practice osteopathic medicine for a patient shall: 3) Establish and/or maintain an osteopathic physician or physician assistant patient relationship which conforms to the standard of care. [...] Items 2 through 5 in the above section do not apply to the practice of pathology and radiology medicine through store and forward telemedicine.</p> <p>Where an existing osteopathic physician or physician assistant/patient relationship is not present prior to the utilization to telemedicine technologies, or when services are rendered solely through telemedicine technologies, an osteopathic physician or physician assistant/ patient relationship may only be established through the use of telemedicine technologies which incorporate interactive audio using store and forward technology with real time videoconferencing or similar secure video services during the initial osteopathic physician or physician assistant/ patient encounter. However, an osteopathic physician/patient relationship may be established through store and forward telemedicine for the practice of pathology and radiology. Once an osteopathic physician or physician assistant/patient relationship has been established, the osteopathic physician or physician assistant, with the informed consent of the patient, may utilize any telemedicine technology which meets the standard of care and is appropriate for the particular patient presentation.</p> |

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| | WV Medical Practice Act § 30-3-13 | | <p>The utilization of telemedicine technologies to practice osteopathic medicine on a patient for whom the standard of care requires an in-person, physical examination or osteopathic manipulation therapy shall constitute dishonorable, unethical and unprofessional conduct.</p> <p>Definitions</p> <p><i>Telemedicine</i> – The practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication, or other means of interaction between a physician or podiatrist in one location and a patient in another location, with or without an intervening healthcare provider.</p> <p><i>Telemedicine technologies</i> – Technologies and devices which enable secure electronic communications and information exchange in the practice of telemedicine, and typically involve the application of secure real time audio/video conferencing or similar secure video services, remote monitoring, or store and forward digital image technology to provide or support healthcare delivery by replicating the interaction of a traditional in-person encounter between a physician or podiatrist and a patient.</p> |
| Wisconsin | Chapter Med 24 | Yes | <p>Physician-patient relationship</p> <p>A physician-patient relationship may be established through telemedicine.</p> <p>Internet diagnosis and treatment</p> <p>(1) When a physician uses a website to communicate to a patient located in Wisconsin, the physician may not provide treatment recommendations, including issuing a prescription, unless the following requirements are met:</p> <ul style="list-style-type: none"> (a) The physician holds an active Wisconsin medical license (b) The physician’s name and contact information have been made available to the patient (c) Informed consent as required by statute (d) A documented patient evaluation has been performed. A patient evaluation shall include a medical history and, so the extent required to meet or exceed the standard of minimally competent medical practice, an examination or evaluation, or both, and diagnostic tests. (e) A patient health care record is prepared and maintained as required under statute <p>(2) Providing treatment recommendations, including issuing a prescription, based solely on a static electronic questionnaire does not meet the standard of minimally competent medical care.</p> |

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| | | | <p>Standards of practice and conduct</p> <p>A Wisconsin licensed physician shall be held to the same standards of practice and conduct, including patient confidentiality and recordkeeping, regardless of whether health care services are provided in person or by telemedicine.</p> <p>Definitions</p> <p><i>Telemedicine</i> – The practice of medicine where patient care, treatment, or services are provided through the use of medical information exchanged from one site to another via electronic communications. Telemedicine does not include the provision of health care services through an audio-only telephone, email messages, text messages, facsimile transmission, mail or parcel service, or any combination thereof.</p> |
| <p>Wyoming</p> | <p>33-13-03. Powers of licensure boards.</p> <p>WY BOM Rules & Regs Ch. 1(3)(yy)</p> <p>WY Stat. Ann. 33-26-102</p> | <p>Yes (Not prohibited)</p> | <p>Authorizes the medical board to (iv) Adopt rules and regulations allowing the practice of telemedicine/telehealth and the use of telemedicine/telehealth technologies within an applicable profession or occupation consistent with the profession's or occupation's duties and obligations. For purposes of this paragraph, telemedicine/telehealth shall be defined within each promulgated rule in a manner applicable to the individual profession or occupation and in a manner which facilitates the development and promotion of uniform, system wide standards for the practice of telemedicine/telehealth and the use of telemedicine/telehealth technologies. Any board promulgating rules under this paragraph shall first confer with the office of rural health for the purpose of promoting the goals established by W.S. 92117(a)(vi) through (viii).</p> <p>Definitions</p> <p><i>Physician-patient relationship</i> – A relationship between a licensee and any person to whom the licensee provides any services or exhibits any conduct that constitutes practicing medicine</p> <p><i>Physician-patient relationship</i> – 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.</p> <p><i>Telemedicine</i> – 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.</p> |

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