



State-Level Telehealth Regulation Overview

Last Revised November 16, 2020

This guidance is for informational purposes and is not intended to be and should not be construed as legal advice. Please consult with qualified counsel in connection with any fact-specific situation.

Table of Contents

Disclaimer - What Is Not Covered	3	Michigan Telehealth	29
Generally Applicable Guidance	4	Mississippi Telehealth	30
Alabama Telehealth	6	Missouri Telehealth	31
Arkansas Telehealth	9	New Jersey Telehealth	32
California Telehealth	10	New York Telehealth	34
Colorado Telehealth	12	North Carolina Telehealth	36
Delaware Telehealth	14	Ohio Telehealth	30
Florida Telehealth	16	Oklahoma Telehealth	40
Georgia Telehealth	18	Pennsylvania Telehealth	41
Illinois Telehealth	20	South Carolina Telehealth	43
Kansas Telehealth	21	Tennessee Telehealth	45
Kentucky Telehealth	23	Texas Telehealth	46
Louisiana Telehealth	25	Utah Telehealth	47
Maryland Telehealth	28	Virginia Telehealth	49
		West Virginia Telehealth	51

- **The guidance in this slide deck applies only to telehealth in the context of a primary care visit.** There are additional state laws and regulations that govern behavioral telehealth, as well as many other types of telehealth visits, and those issues are not addressed here. Likewise, this slide deck does not provide guidance for tele-prescribing.
- **These slides do not cover any requirements related to reimbursement by any payer.** You are responsible for understanding and implementing any payer requirements to obtain reimbursement for telehealth services. You should particularly be aware that while many states permit audio-only telehealth encounters to respond to the COVID-19 emergency, not all payers will do so. Medicare has developed unique codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- **Please review your professional liability insurance to determine if telehealth encounters are covered by your policy.**
- **This guidance notes only if there are state privacy concerns unique to telehealth encounters.** You are responsible for understanding and applying your other local state privacy laws.

- All states require you to obtain the patient's consent to the telehealth encounter and document the consent in the record. Even where oral consent is permitted, it is a best practice to obtain written consent. When using a professional telehealth platform, consent can be provided to the patient through the platform and Aledade has developed a template for that purpose. If you are using a consumer product to conduct the telehealth encounter, it is a best practice to provide the patient with Aledade's templated consent form via email and receive a signed copy back (even just a photo) before the encounter. Individual state slides indicate where oral consent is acceptable.
- If you have not seen the patient before, you should take appropriate steps to establish a provider-patient relationship based on the standard of care required for an in-person visit.
- You must always adhere to the same standard of care or practice standards as are applicable to in-person settings. If telehealth services would not be consistent with the applicable standard of care, you should conduct an in-person visit. Always establish a diagnosis through the use of acceptable medical practices in accordance with the applicable standard of care.
- The individual state guidance includes information that must be provided to the patient or received from the patient per applicable laws and regulations. Make sure you provide/receive that information.

- You should always explain to the patient how the technology works.
- You should always explain to the patient how they can obtain follow-up care.
- Remember to always comply with all state record keeping requirements and record the telehealth encounter in the record.
- For the period of the National Emergency related to COVID-19, many state licensure restrictions barring out-of-state providers from providing services within the state have been suspended. If you are providing telehealth services to an out-of-state patient, please notify them of your out-of-state license and obtain their consent to proceed anyway. The template consent form contains this clause.
- This is a quickly evolving area of the law. Please note the date on this guidance and consult with qualified healthcare counsel for the most up-to-date information. This guidance was developed specifically to help providers implement telehealth to respond to the March 12, 2020, declaration of a national emergency related to the spread of COVID-19 and is current as of November 16, 2020
- If you have questions or concerns about any information provided in this guidance, please consult with qualified health care counsel in your state.

- Encounter may be conducted by any licensed healthcare professional. Out of state health care providers must obtain a special purpose license to practice telehealth across state lines.
- Standards of care have been relaxed during the COVID-19 emergency so that: (1) health care facilities that have invoked their emergency operations plan may implement “alternative standards of care” and (2) the “alternative standards of care” now set the standard of care for all providers for malpractice purposes. This includes telehealth.
- You must have an existing professional relationship with the patient before the telehealth encounter.
- Encounter may occur over two-way interactive audio, visual, or audio-visual technologies. The modality must always allow the encounter to meet the standard of care, a particular concern for audio-only encounters. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- Patient may orally consent to telehealth services. See generally applicable consent guidance on Slide 4.
- You must arrange for or provide follow-up care to the patient.

- If you are not the patient's regular provider, you must forward the record of the telehealth encounter to the regular provider unless the patient objects.
- You must have a protocol for referral for emergency services.
- Any special HIPAA/privacy concerns: No.
- Prescribing: Alabama's Board of Medical Examiners and Board of Pharmacy has suspended all of its rules around prescribing controlled substances and is directing practitioners to follow Federal guidance. That guidance states that, during the COVID-19 period of national emergency, providers may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided that prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice; the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and the practitioner is acting in accordance with applicable Federal and State laws.

- Encounter may be conducted by any Arkansas- licensed healthcare professional.
- Physicians that are currently practicing in any of the 6 bordering states may provide telemedicine **only** for established Arkansas patients (TX, OK, MO, TN, MS, LA). May establish a relationship via telehealth
- On March 13, 2020, Governor Hutchison suspended certain provisions of the Telemedicine Act so that providers may now create a professional relationship with the patient by any means, including audio only provided that they have access to the patient's medical record
- Encounter may occur over two-way interactive audio, visual, or audio-visual technologies. The modality must always allow the encounter to meet the standard of care, a particular concern for audio-only encounters. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- Patient may orally consent to telehealth services. See generally applicable consent guidance on Slide 4.
- If you are not the patient's regular provider, you must forward the record of the telehealth encounter to the regular provider unless the patient objects.
- You must have a protocol for referral for emergency services.
- Any special HIPAA/privacy concerns: No.

- Prescribing: A provider using telemedicine may NOT issue a prescription for any controlled substances defined as any scheduled medication under schedules II through V unless the provider has seen the patient for an in-person exam or unless a relationship exists through consultation or referral; on-call or cross-coverage situations; or through an ongoing personal or professional relationship.

- Encounter may be conducted by any licensed health care provider. “Medical personnel” from out of state may provide services related to responding to, mitigating the effects of and recovering from COVID-19, according to Governor Newsom’s March 4, 2020, Emergency Declaration
- There is no requirement as to the type of equipment (audio, video, audio/video) that must be used, but modality must always allow the encounter to meet the standard of care, a particular concern for audio-only encounters. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- Patient may orally consent to telehealth services. See generally applicable consent guidance on Slide 4. While California has waived the documentation requirement around consent, it is a best practice to document that consent in the file.
- Must obtain patient’s full name and address at beginning of session
- Any special HIPAA/privacy concerns: No.

- Prescribing: California has no statutes or regulations governing telehealth and prescribing for either controlled or non-controlled substances (although it does prohibit prescribing dangerous drugs via the Internet without an appropriate prior examination) so you should follow Federal guidance for prescribing controlled substances. During the COVID-19 period of national emergency, providers may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided that prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice; the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and the practitioner is acting in accordance with applicable Federal and State laws.

- Colorado encourages all providers to conduct telehealth visits whenever possible during the COVID-19 emergency
- Any licenced provider may conduct telehealth encounters within the scope of their practice. Any physician or physician in training may temporarily practice in CO without a CO license if they are licensed in another state and do not have established medical staff membership or clinical privileges in CO
- Encounters can be conducted via interactive audio, video or data communications. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95. CO payers must reimburse all modalities.
- If there is no pre-existing provider-patient relationship, must verify the patient's identity and location, and also disclose your identity and applicable credentials.
- Patients are not required to be located in Colorado at time of telemedicine consultation, as long as they are Colorado citizens
- Must obtain informed consent to telehealth services. See general consent guidance on slide 4.

- Prescribing: Follow Federal guidance, which provides that during the COVID-19 period of national emergency, providers may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided that prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice; the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and the practitioner is acting in accordance with applicable Federal and State laws. Note that Colorado will require electronic prescribing in this manner commencing July 2021.
- Regrading permanent telehealth changes - On July 6, Colorado Governor Jared Polis signed SB 20-212, expanding access to telehealth for Colorado residents by prohibiting insurers from requiring an established in-person practitioner/patient relationship or imposing location or additional licensure requirements, as well as preventing limitations on the use of HIPAA-compliant technologies to deliver telehealth.

- Encounter may be conducted by an MD, DO, or APRN (includes CNP and CNS). Any out-of-state provider with an active license may provide telehealth services in Delaware during COVID-19 emergency.
- The Delaware Department of Insurance has stated that, during the COVID emergency, telehealth can take place via audio-only platforms where that comports with the applicable standard of care. Note that payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95. See also prescribing note on the next slide.
- Patient may orally consent to telehealth services. See generally applicable consent guidance on Slide 4.
- You must identify yourself to the patient and orally confirm the patient's identity and location.
 - If you are an APRN, you must also disclose your credentials.
- You must give the patient a written summary of the visit. You can send this via email, mail or by posting in the patient portal. No specific format is required.
- All regulations requiring any in-person contact before or during telemedicine services provided by any medical professional have been suspended.

- You must tell the patient how to obtain follow up treatment.
- Special HIPAA/Privacy Concerns: No.
- Delaware has suspended its requirements that a patient be present in Delaware if the patient is a Delaware resident
- Prescribing:
 - As of 3/23/20, prescriptions made through telemedicine and under a physician-patient relationship may include controlled substances, subject to limitations as set by the Board. For APRNs, the prescription may only be issued after a telehealth encounter that includes audio and video, notwithstanding the COVID-19 emergency. This is a temporary suspension of Regulation 19 during the COVID-19 emergency.

- Encounter may be conducted by any licensed MD, DO, CNA, LPN, RN, APRN.
- Providers must use simultaneous two-way audio and video for the encounter.
- Patient may orally consent to telehealth services. See generally applicable consent guidance on slide 4.
- You must document the telehealth encounter in the same manner as an in-person encounter.
- Any special HIPAA/privacy concerns: No.
- Properly licensed out of state MDs, DOs, PAs, and APRNs may provide telehealth services to Florida residents affected by COVID-19 for 30 days per order of the Florida Department of Health
- Prescribing:
 - Special Covid Rule: For purposes of preparing for, responding to, and mitigating any effect of COVID-19, physicians, osteopathic physicians, physician assistants, and advanced practice registered nurses licensed in Florida that have designated themselves as a controlled substance prescribing practitioner may issue a renewal prescription for a controlled substance listed as Schedule II, Schedule III, or Schedule IV under chapter 893 only for an existing patient for the purpose of treating chronic nonmalignant pain without the need to conduct a physical examination of the patient. These practitioners may only substitute telehealth services for the physical exam

- Prescribing: General rule: A telehealth provider may not use telehealth to prescribe a controlled substance unless the controlled substance is prescribed for the following:
 - The treatment of a psychiatric disorder;
 - Inpatient treatment at a hospital licensed under chapter 395;
 - The treatment of a patient receiving hospice services
 - The treatment of a resident of a nursing home facility as defined in s. 400.021.

- Any licensed provider may conduct the encounter if they have demonstrated competence in telemedicine and the services are within the scope of their license. Provider must either have (1) previously examined the patient and be providing ongoing care via telehealth or (2) be providing the encounter at the request of a physician who has previously examined the patient
- The Georgia Medical Board and Nursing Board are authorized to issue temporary licenses to properly licensed out-of-state providers to assist with the COVID-19 response
- Patient may orally consent to telehealth services. See generally applicable consent guidance on Slide 4.
- Must use real time, two-way, audio or video technology. The modality must always allow the encounter to meet the standard of care, a particular concern for audio-only encounters. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- Must provide the practitioner's credentials as well as clear directions for emergent care related to treatment

- Special HIPAA/Privacy Concerns: No
- Prescribing: During the COVID-19 period of national emergency, the Georgia Department of Health permits providers to follow Federal guidance for prescribing controlled substances. For the duration of the emergency, the DEA permits providers to issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided that prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice; the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and the practitioner is acting in accordance with applicable Federal and State laws.

- The following providers can conduct telehealth encounters: Physicians, PAs, APRNs consistent with the standards of care for in-person services.
- During the COVID-19 emergency, providers may use audio or video platforms. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- During the COVID-19 emergency, out of state providers may conduct telehealth encounters if they have an established relationship with an Illinois patient
- Prescribing: A prescriber who is otherwise authorized to prescribe controlled substance may issue electronic prescriptions in accordance with federal rules. Federal rules provide that, during the COVID-19 period of national emergency, providers may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided that prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice; the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and the practitioner is acting in accordance with applicable Federal and State laws.

- Any licensed healthcare practitioner with may conduct the encounter and all are encouraged to utilize telemedicine when appropriate. Physicians under quarantine of self quarantine are permitted to practice telemedicine
- Out of state physicians may use telemedicine to treat patients in Kansas without a Kansas medical license if they inform the Board of Healing Arts of their practice and hold an unrestricted license in another state
- Encounter may occur over two-way interactive audio, visual, or audio-visual technologies. The modality must always allow the encounter to meet the standard of care, a particular concern for audio-only encounters. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- Patient may orally consent to telehealth services. See generally applicable consent guidance on slide 2.
- If the patient has a different primary care or other treating physician, and the patient consents, you must send the physician a report of the telemedicine encounter within three days.

- Any special HIPAA/privacy concerns: No.
- Prescribing: Pursuant to Executive Order 20-08, due to the COVID-19 emergency the Kansas State Board of Healing Arts may not enforce any statute, rule or regulation that would require physicians to conduct an in-person examination of a patient before issuing a prescription or ordering the administration of medication, including controlled substances.

- Licensed MDs, DOs, LPN, RN, and APRN may practice telehealth and are encouraged to do so. The Kentucky Medical Board and Nursing Board are authorized to issue temporary licenses to properly licensed out-of-state providers to assist with the COVID-19 response
- Encounter may occur over two-way interactive audio, visual, or audio-visual technologies, including phone calls. The modality must always allow the encounter to meet the standard of care, a particular concern for audio-only encounters. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- Either the patient or another appropriate person with authority to make health care treatment decisions for the patient must consent to the encounter. No barrier to oral consent. See generally applicable consent guidance on slide 4.
- Provide patient with your telephone number and emergency on-call number. Attempt to verify patient's identity and obtain the patient's telephone number in case of an equipment failure.
- LPNs, RNs and APRNs must conduct telehealth only via encrypted technology and cannot ask the patient to waive HIPAA protections.

- Any special HIPAA/privacy concerns: Only for nurses - see above.
- Prescribing: Physicians may prescribe controlled substances during the COVID-19 emergency if the patient's medical record justifies prescribing or dispensing a controlled substance under the circumstances. The emergency guidance supports departing from "professional standards for prescribing . . . controlled substances" if there are circumstances beyond the physician's control supporting the decision to depart or the physician makes a professional determination that it is not appropriate to comply with a specific standard based upon the individual facts applicable to a specific patient's diagnosis and treatment. The circumstances and individual facts supporting the decision to depart from applicable professional standards must be documented in the patient's record.

- The Louisiana Board of Medicine has directed all healthcare providers to transition all in-person healthcare services to a telehealth mode of delivery when medically appropriate and defer in-person services for 30 days when they can safely do so.
- Encounter may be conducted by any licensed health care provider in accordance with the standard of care for in-person visits. Per Governor Edwards March 20, 2020, emergency declaration, licensing boards are encouraged to adopt emergency rules relaxing the standards of care for telehealth encounters.
- Encounter may occur over two-way interactive audio, visual, or audio-visual technologies. The modality must always allow the encounter to meet the standard of care (see above), a particular concern for audio-only encounters. Note that payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier -95
- Patient may orally consent to telehealth services. See generally applicable consent guidance on slide 4.
- No need for pre-existing relationship with patient but must verify the patient's identity.

- You must disclose the following and document in the patient's medical record:
 - Your name, address and telephone number
 - Your LA medical license number
 - Your specialty or area of practice
 - How patient can receive follow-up and emergency care (contained in templated consent form)
 - How patient can obtain copies of medical records and/or insure their transmission to another provider
 - How patient can receive care in the event of a technology or equipment failure (contained in templated consent form)
 - That patient may decline to receive services by telemedicine and may withdraw from care at any time (this is contained in the templated consent form provided)
- Licensed out of state physicians may obtain an emergency temporary permit, valid for a period of 60 days, to respond to the COVID-19 emergency. Typically the physician must agree to provide free services but the Louisiana Board of Medical Examiners may authorize out-of-state physicians to receive payment under emergency circumstances, which have already been declared in Louisiana.

- Prescribing: Physicians may prescribe controlled substances via telemedicine if they have previously conducted an appropriate in-person patient history of physical examination of the patient.
- Special HIPAA/Privacy Concerns: Must provide Notice of Privacy Practices to patient. Special Medicaid note: the Department of Health requires you to use a HIPAA-compliant platform if one is available. If one is not, you may use a commercial product

- Any licensed practitioner may conduct telehealth within the scope of their license. Actively licensed out of state practitioners may conduct telehealth encounters without a MD license to provide continuity of care to existing MD patients during the COVID state of emergency.
- During the state of emergency, the telehealth link need not comply with HIPAA but providers must make good faith efforts to prevent unauthorized access to data.
- During the Covid-19 emergency, telehealth may be conducted via two-way audio or audio-video. You should obtain an alternate method of contacting the patient if there is a tech failure, confirm that the patient is in Maryland and identify everybody that is in the room with you and with the patient
- You must verify the patient's identity in the same way you would accept for an in-person encounter
- Consent to telehealth may be oral or written. Obtain patient's consent to have others in the room with you or with them hear the exam (if applicable).
- Prescribing: Follow Federal guidance on controlled substance prescribing during the COVID-19 state of emergency.

- Any individual licensed to practice a healthcare profession in Michigan may provide telehealth services.
- Encounter may occur over two-way interactive audio, visual, or audio-visual technologies. The modality must always allow the encounter to meet the standard of care, a particular concern for audio-only encounters. Payers may have different criteria for telehealth reimbursement and require audio-visual. Note that payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- During the COVID-19 emergency you may establish a provider-patient relationship via telehealth platform if that would be consistent with the applicable standard of care
- Patient may orally consent to telehealth services. See generally applicable consent guidance on slide 4.
- Any special privacy/HIPAA concerns: No
- Prescribing: If a bona fide prescriber-patient is established, whether in person or via telehealth, the prescriber may prescribe a controlled substance listed in schedules II-V.

- Encounter may be conducted by any licensed provider. During the COVID-19 emergency, fully licensed out-of-state physicians may treat Mississippi patients with whom they have a pre-existing doctor-patient relationship without a Mississippi license. This requirement is waived for licensed out of state physicians whose specialty services are determined necessary by the Mississippi Department of Health.
 - Out of state physicians holding temporary/emergency licences can continue to practice in MS until 1/31/21 but must submit an application for a full unrestricted license by December 31, 2020 if they wish to continue providing care in MS.
- Encounter must include two-way video
- On March 15, 2020, the Mississippi State Board of Medical Licensure issued a proclamation encouraging the use of telemedicine and announcing that it will not enforce any statute, rule or regulation that would require physicians to personally examine patients prior to issuing a prescription or ordering the administration of medication. Physicians must, however, conduct an evaluation of the patient's current condition and document the appropriate medical indication for the prescription.
- Patient may orally consent to telehealth services. See generally applicable consent guidance on slide 4.
- Prescribing: During the COVID-19 emergency, the Board of Medical Licensure will not enforce any statute, rule or regulation that would require physicians to personally examine patients prior to the issuance of a prescription or order the administration of medication, including controlled substances.

- Any individual licensed to practice a healthcare profession in Missouri may provide telehealth services. Properly licensed out of state physicians may practice in Missouri only to assist with COVID-19.
- Encounter may occur over two-way interactive audio, visual, or audio-visual technologies. The modality must always allow the encounter to meet the standard of care, a particular concern for audio-only encounters. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- Providers may establish a provider-patient relationship via telehealth platform if the technology used is sufficient to establish an informed diagnosis as if a medical interview and physical exam had been provided in person.
- Patient may orally consent to telehealth services. See generally applicable consent guidance on slide 4.
- Any special privacy/HIPAA concerns: No
- Prescribing: If there is a valid physician-patient relationship may prescribe any drug or controlled substance. Cannot establish relationship via audio only or Internet questionnaire, and must discuss treatment options, as well as risks/benefits of treatment, with the patient.

- Any licensed healthcare provider may provide telehealth services. Licensed out-of-state providers must have a pre-COVID-19 relationship with the patient to conduct a telehealth encounter unless the encounter only concerns COVID-19
- Providers are permitted to use alternative technologies such as audio only telephone or video technology commonly available on smartphones and other devices as long as standard of care is met.
- Patient may orally consent to telehealth services. See generally applicable consent guidance on Slide 4.
- If no pre-existing provider-patient relationship you must (1) inform patient of your identity, professional credentials and contact information and (2) identify the patient by name, DOB, phone number and address
- A provider is no longer required to review a patient's medical history and medical records prior to an initial telehealth encounter. Providers should use clinical judgment to obtain relevant medical history and review available medical records to meet applicable standards of care
- If the patient consents, you must forward the records of the telehealth encounter to the patient's primary care provider or provider that the patient requests
- Any special privacy/HIPAA concerns: No

- Prescribing:
 - During the COVID-19 pandemic health emergency, before prescribing Schedule II controlled dangerous substances through the use of telehealth, the provider must conduct an in-person examination of the patient (via telehealth using real-time, interactive audio-visual equipment). Follow-ups may be conducted via telephone.
 - Providers may prescribe stimulants which are Schedule II controlled dangerous substances for use by a minor via interactive, real-time two-way audio and video technologies if the provider has obtained written consent for the waiver of the in-person examination requirements from the minor's parent or guardian.

- Physicians, PAs, NPs and RNs may offer telehealth services. Licensed out-of-state providers in good standing may practice in NY during the COVID-19 emergency
- Normally any telehealth encounter must occur over two-way interactive audio-visual technology, but during the COVID-19 emergency providers may evaluate established patients via telephone where it is medically inadvisable to have a face-to-face appointment. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- Patient may orally consent to telehealth services. See generally applicable consent guidance on Slide 4.
- Patient must be located in one of several designated locations, including their own residence in New York State or in a temporary location within or outside the State.
- Any special HIPAA/privacy concerns: No

- Prescribing: New York has no statutes or regulations governing telehealth and prescribing for either controlled or non-controlled substances so you should follow Federal guidance for prescribing controlled substances (except for regulations specifically around buprenorphine, which is governed by lengthy regulations issued by the Office of Alcoholism and Substance Abuse Services). During the COVID-19 period of national emergency, providers may issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided that prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice; the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and the practitioner is acting in accordance with applicable Federal and State laws.

- No statute authorizes telemedicine in North Carolina. Check your malpractice insurance coverage before offering this service. Guidance is based on NC Medical Board position paper, NC Board of Nursing position paper, and national best practices
- The North Carolina Medical Board is currently urging clinicians to use telehealth/televideo and telephone triage to assess clinical status of patients with respiratory illnesses whenever clinically appropriate in lieu of face-to-face encounters. If it is possible to gather sufficient clinical information from the patient during a telemedicine consultation to provide care that meets at least the minimum standards of care, then the Board considers it appropriate to use telemedicine.
- Services may be offered by licensed MDs, DOs, APRN with an RN or LPN license, LPN and RN. Must be trained in the telehealth technology
- Encounter may occur over two-way interactive audio, visual, or audio-visual technologies. The modality must always allow the encounter to meet the standard of care, a particular concern for audio-only encounters. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95

- Because there is no official state guidance, a best practice is to obtain written consent to telehealth treatment. See generally applicable consent guidance on Slide 4.
- Must verify the patient's identity and location.
- Must tell the patient your name, address, telephone number and credentials
- During the COVID-19 emergency, the Board has stated that patient safety should be the focus and "to the extent documenting care hampers a physician's ability to care for patients the Board is unlikely to press licensees on this point.
- Tell patient how to obtain follow up treatment and document instructions given
- Special HIPAA/Privacy Concerns: None but if establishing relationship provide with all standard privacy forms
- NC licensure requirements for out-of-state "health care personnel" who are licensed in another state during the period of COVID-19 emergency have been temporarily waived. Out of state physicians still need to submit an online waiver to practice medicine in NC.

- Prescribing: Outside of the COVID-19 emergency, the North Carolina Medical Board considers it inappropriate to prescribe controlled substances for the treatment of pain where the only patient encounter is by means of telemedicine and there are no other licensed health providers involved in the initial and ongoing evaluation of the patient. During the COVID-19 emergency, the the Board has instructed providers to follow Federal guidance for prescribing controlled substances, which, during the COVID-19 period of national emergency, permits providers to issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided that prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice; the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and the practitioner is acting in accordance with applicable Federal and State laws.

- During the COVID-19 state of emergency, OHIO has developed the following guidance for Ohio Medicaid practitioners. We consider it low risk for all providers to conduct telehealth encounters according to the guidance:
 - The following primary care practitioners may conduct telehealth encounters: physicians, PAs, CNS, FQHC or RHC
 - New and established patients may receive services via telehealth and no initial face-to-face visit is required
 - Requirement that telehealth platform be HIPAA-compliant is lifted; follow HHS guidance and use any audio or video non-public facing two-way communication platform
- Prescribing: You may electronically prescribe controlled substances for remote patients if they are active patients of the practice. You may only prescribe a non-controlled substance on a remote patient upon whom you have not conducted a physical examination if you: establish their identity and physical location and obtain informed consent for telehealth treatment in addition to treating and diagnosing the patient consistent with the standard of care.

- State law does not specify who can conduct a telehealth encounter. Medicaid will reimburse the following primary-care providers: Physicians, APRNs, PAs so it is low risk for those providers to conduct telehealth encounters in OK
- Out of State physicians and nurses of any level licensed by the Nursing Board may obtain a temporary license during the COVID-19 emergency permitting them to conduct telehealth in OK
- May establish a relationship via telehealth if you confirm the patient's identity and physical location and provide the patient with the provider's identity and professional credentials
- Must communicate via audio and video.
- Special HIPAA/Privacy Concerns: The requirement that technology be HIPAA compliant does not appear to be waived during the COVID-19 emergency. Medicaid will only reimburse when "encrypted" technology is used.
- Prescribing: It is mandatory for prescribers to issue electronic prescriptions for controlled dangerous substances in schedules II, III, IV, and V

- No statute authorizes primary care telehealth in Pennsylvania. Check your malpractice insurance coverage before offering this service and also determine payor reimbursement. The Board of Medicine recently authorized out-of-state, licensed, health-care professionals to conduct telemedicine within Pennsylvania, however, so we believe that telehealth encounters may proceed without risk during the COVID-19 emergency. This guidance represents best practices.
- Encounter may be conducted by any licensed health care provider
- Conduct the encounter using two-way, simultaneous audio-visual technology
- Confirm the patient's identity and tell the patient your name, address, and telephone number
- Because there is no statutory or regulatory guidance, we recommend obtaining the patient's written consent to telehealth encounters. See generally applicable consent guidance on slide 4
- Tell patient how to obtain follow up treatment and document instructions given
- Provide the patient with a written summary of the visit via email, mail or patient portal
- Special HIPAA/Privacy Concerns: None

- Prescribing: Pennsylvania does not have any statutes or regulations addressed the prescribing of controlled substances via telehealth, so providers should follow Federal guidance for prescribing controlled substances , which , during the COVID-19 period of national emergency, permits providers to issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided that prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice; the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and the practitioner is acting in accordance with applicable Federal and State laws.

- Only MDs and DOs may conduct a telehealth encounter per state regulations, but SC Medicaid now (as of 3/19/20) permits PAs and NPs to also bill Medicaid for encounters. Based upon the recent Medicaid guidance, it is low risk for PAs and NPs to conduct telehealth encounters during the Covid-19 emergency.
- The South Carolina Medical Board will expedite temporary licensure for out-of-state physicians, PAs and respiratory care practitioners within 24 hours.
- Can use any electronic communications platform
- Patient may orally consent to telehealth services if that consent would be appropriate in light of the applicable standard of care. See generally applicable consent guidance on Slide 4
- May establish a provider-patient relationship via telehealth
- Must verify the patient's identity and location
- Must maintain records as if encounter took place face-to-face
- Must ensure availability of appropriate follow-up care
- Special HIPAA/Privacy Concerns: None but if establishing relationship provide with all privacy forms

- Prescribing: The South Carolina Medical Board has suspended enforcement of the prohibition on licensed physicians, PAs and APRNs in good standing prescribing Schedule II and III medications via telemedicine without prior Board approval. The prohibition on prescribing all other classes of controlled drugs remains.

- Any licensed health care provider may conduct telehealth encounters. During the COVID-19 emergency, any out-of-state, licensed provider may practice in TN within the scope of their practice.
- Must use “secure” video in addition to audio communication. There is no reference to HIPAA security so it is unclear what level of security it required.
- You may establish a provider-patient relationship via telehealth by doing the following: verify the patient’s identity via government-issued photo identification and location, obtain patient’s relevant health history, and disclose your name, practice location, medical degree and recognized specialty area. Document this information in the chart.
- Prescribing: Physicians with a full and unrestricted medical license may prescribe controlled substances via telemedicine if they have performed an appropriate history and physical exam, are acting within applicable standards of care, discuss a therapeutic plan with the patient and insure follow-up care. Existing limits on treating chronic pain remain in effect.

- The following rules are in effect during the declared COVID-19 disaster period:
 - Any licensed provider may practice telehealth within the scope of their license
 - Telemedicine, including the use of telephone only, may be used to establish a physician-patient relationship, as well as for diagnosis, treatment and prescribing provided that meets the standard of care
 - Out of state physicians and nurses may practice via telehealth in Texas if they have a valid license from their home state and are practicing within the scope of their license
 - Must obtain a Texas limited emergency license
 - Patient may provide oral consent to telemedicine; must document in record
 - Prescribing: Until the TX State of Emergency expires, APRNs may prescribe controlled substances via telehealth and physicians may provide telephone refills of a valid prescription for treatment of chronic pain if they have an established chronic pain patient. All other prescribers may follow federal prescribing guidance during the COVID-19 emergency

- Any health-care provider may conduct a telehealth encounter. Licensed out of state providers may obtain a temporary emergency license to provide health care services to Utah residents. The license is free and valid for 180 days.
- Can establish provider-patient relationship via telehealth
- Utah does not require the use of audio-video technology, but note that some payers may not reimburse audio-only telehealth services. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier - 95
- Must be available for subsequent services related to the telehealth encounter
- Special HIPAA/Privacy Concerns: None. Utah has suspended application of the requirement that providers must use a two-way communications platform that meets HIPAA privacy and security standards

- Prescribing: Utah does not have any statutes or regulations addressed the prescribing of controlled substances via telehealth, so providers should follow Federal guidance for prescribing controlled substances, which , during the COVID-19 period of national emergency, permits providers to issue prescriptions for all schedule II-V controlled substances to patients for whom they have not conducted an in-person medical evaluation, provided that prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice; the telemedicine communication is conducted using an audio-visual, real-time, two-way interactive communication system; and the practitioner is acting in accordance with applicable Federal and State laws.

- Any licensed health-care provider may conduct a telehealth encounter.
- For the duration of the public health emergency, providers may use any non-public facing audio or remote communication product to conduct telehealth
- Must verify the patient's identity and location
- Orally identify yourself and disclose your credentials if you do not have a pre-existing relationship
- You must obtain/provide (as applicable) the following information to establish consent to telehealth encounter in addition to the information provided on the template consent form. Consent may be obtained orally but should be documented in the chart
 - Your credentials
 - Description of the services that will be provided during the encounter
 - Patient's acknowledgment that you will determine whether the visit should occur via telehealth
 - The security around the telehealth platform you are using and the privacy risks
 - Patient's consent to provide PHI from the visit to a third party provider
 - Patient's agreement to hold you harmless if any information is lost due to technical failure
- Special HIPAA/Privacy Concerns: No.

- Prescribing:
 - To prescribe Schedule VI controlled substances via telehealth, there must be a bona fide practitioner-patient relationship. This requires (in addition to fulfilling the telehealth requirements on slide 1), reviewing the patient's medical history and updating it at the time of prescribing, making a diagnosis at the time of prescribing and satisfying all applicable standards of care. There are also documentation and credentialing requirements.

- MDs, DOs, APRN, NP, CNS may conduct a telehealth encounter. Licensed out-of-state providers in good standing may practice telemedicine in WV during the COVID-19 emergency
- If no pre-existing provider-patient relationship exists, you may establish one via telehealth. During the COVID-19 emergency, Governor Justice has suspended the requirement that telehealth encounters occur using video as well as audio. Payers may have different criteria for telehealth reimbursement and require audio-visual. Medicare has developed unique time-based codes to reimburse for audio-only calls. Medicare will reimburse telehealth with video at parity with an office visit if you use POS 11 and Modifier -95
- Patient may orally consent to telehealth services. See generally applicable consent guidance on Slide 2.
- Must verify the patient's identity and location
- Must identify yourself to the patient
- Must tell the patient your physical location and contact information
- Special HIPAA/Privacy Concerns: None

- Prescribing:
 - 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 unless the patient is a minor or, if an adult, diagnosed with various intellectual disabilities or attention deficit disorder. You must maintain records of the diagnosis and the treatment.
 - 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.
 - WV has suspended the requirement that a practitioner perform an in-person physical every 90 days prior to prescribing a refill for a Schedule II opioid medication to an existing patient for chronic pain treatment