



NEW MEXICO

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

With respect to coverage of telemedicine services, “telemedicine” is defined as “the use of interactive simultaneous audio and video or store-and-forward technology using information and telecommunications technologies by a health care provider to deliver health care services at a site other than the site where the patient is located, including the use of electronic media for consultation relating to the health care diagnosis or treatment of the patient in real time or through the use of store-and-forward technology.”

[N.M. STAT. § 59A-22-49.3\(H\).](#)

Section 61-6-6 of New Mexico’s Medical Practice Act permits the issuance of a “telemedicine license” to “allow the practice of medicine across state lines.” That section defines “the practice of medicine across state lines” as:

1. “the rendering of a written or otherwise documented medical opinion concerning diagnosis or treatment of a patient within New Mexico by a physician located outside the state as a result of transmission of individual patient data by electronic telephonic or other means from within New Mexico to the physician or the physician’s agent; or
2. the rendering of treatment to a patient within New Mexico by a physician located outside the state as a result of transmission of individual patient data by electronic, telephonic or other means from within New Mexico to the physician or the physician’s agent.”

[N.M. STAT. §§ 61-6-6\(K\), 61-6-11.1.](#)

The New Mexico Telehealth Commission Act also defines “telehealth” as “the use of electronic information, imaging and communication technologies, including interactive audio, video and data communications as well as store-and-forward technologies, to provide and support health care delivery, diagnosis, consultation, treatment, transfer of medical data and education.”

[N.M. STAT. § 24-1G-3.](#)

PSYCHIATRISTS

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

Yes. The “practice of medicine” includes “offering or undertaking to administer, dispense or prescribe a drug or medicine for the use of another person. . . .”

[N.M. STAT. § 61-6-6\(J\)\(2\).](#)



NEW MEXICO

New Mexico considers “prescribing, dispensing or administering drugs or medical supplies to a patient when there is no established physician-patient relationship, including prescribing over the internet or via other electronic means that is based solely on an on-line questionnaire” unprofessional or dishonorable conduct, except via the following telehealth conditions:

“[T]he provision of consultation, recommendation, or treatment during a face-to-face telehealth encounter online, using standard videoconferencing technology, where a medical history and informed consent are obtained and a medical record generated by the practitioner, and a physical examination is:

- (a) recorded as appropriate by the practitioner, or a practitioner such as a physician, a physician or anesthesiologist assistant, or an advanced practice nurse, with the results communicated to the telehealth practitioner; or
- (b) waived when a physical examination would not normally be part of a typical physical face-to-face encounter with the patient for the specific services being provided.”

[N.M. CODE R. § 16.10.8.8\(L\)\(6\).](#)

PSYCHOLOGISTS

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

Yes. A “conditional prescribing psychologist” is defined as “a licensed psychologist who holds a valid conditional prescription certificate.”

A “conditional prescription certificate” means “a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication under the supervision of a licensed physician pursuant to the act.”

[N.M. CODE R. §§ 16.22.1.7\(A\)\(14\)–\(15\).](#)

A conditional prescribing or prescribing psychologist cannot “prescribe medications for patients with the following conditions:

1. patients with a serious co-morbid disease of the central nervous system;
2. patients with cardiac arrhythmia;
3. patients who are being pharmacologically treated for coronary vascular disease;
4. patients with blood dyscrasia;
5. patients who are hospitalized for an acute medical condition; or



NEW MEXICO

6. women who are pregnant or breast feeding.”

A conditional prescribing or prescribing psychologist cannot prescribe a drug, substance, or controlled substance that is not contained in the formulary described in regulations.

[N.M. CODE R. § 16.22.21.8\(B\).](#)

No telehealth-specific conditions/limits are identified.

PRIVACY/CONFIDENTIALITY

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

New Mexico prohibits the disclosure of confidential information in its Mental Health Article: “Except as otherwise provided in the code, no person shall, without the authorization of the client, disclose or transmit any confidential information from which a person well acquainted with the client might recognize the client as the described person, or any code, number or other means that can be used to match the client with confidential information regarding the client.”

Authorization requirements are also listed as follows:

“No authorization given for the transmission or disclosure of confidential information shall be effective unless it:

- (1) is in writing and signed; and
- (2) contains a statement of the client's right to examine and copy the information to be disclosed, the name or title of the proposed recipient of the information and a description of the use that may be made of the information.”

[N.M. STAT. § 43-1-19.](#)

COVERAGE & REIMBURSEMENT

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

New Mexico also covers telemedicine for Alternative Benefit Plan recipients under the *New Mexico Managed Care Policy Manual*.



NEW MEXICO

New Mexico Human Services Department, Medical Assistance Division, [*Managed Care Policy Manual*](#) (revised through Mar. 1, 2017), at 258.

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

The definition, which remains unchanged, is now available (by subscription) through an updated link: [N.M. STAT. § 26-1-2\(D\)](#).