

TENNESSEE

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

Under Tennessee’s medical practice regulations, “[t]elemedicine is the practice of medicine using electronic communication, information technology or other means, between a licensee in one location and a patient in another location. Telemedicine is not an audio only telephone conversation, email/instant messaging conversation or fax. It typically involves the application of secure video conferencing or store-and-forward to provide or support healthcare delivery by replicating the interaction of a traditional encounter between a provider and a patient.”

[TENN. COMP. R. & REGS. 0880-02-.16\(1\)\(g\).](#)

The Tennessee insurance statute states that “telehealth”:

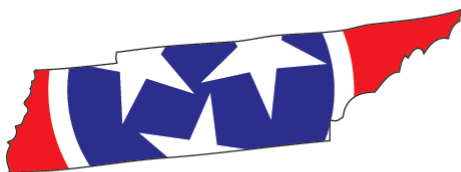
- (A) means the use of real-time, interactive audio, video telecommunications or electronic technology, or store-and-forward telemedicine services by a healthcare services provider to deliver healthcare services to a patient within the scope of practice of the healthcare services provider when:
 - i. Such provider is at a qualified site other than the site where the patient is located; and
 - ii. The patient is at a qualified site, at a school clinic staffed by a healthcare services provider and equipped to engage in the telecommunications described in this section, or at a public elementary or secondary school staffed by a healthcare services provider and equipped to engage in the telecommunications described in this section; and
- (B) Does not include: (i) An audio-only conversation; (ii) An electronic mail message; or (iii) A facsimile transmission. . . .

[TENN. CODE ANN. § 56-7-1002\(a\)\(6\).](#)

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

Within the Tennessee Psychology Practice Act, “telepsychology” means “the practice of psychology via electronic communications technology by persons licensed under this chapter.”

[TENN. CODE ANN. § 63-11-203\(a\)\(A\)\(viii\).](#)

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

“No person shall engage in the practice of medicine, either in person or remotely using information transmitted electronically or through other means, on a patient within the state of Tennessee unless duly licensed by the Board in accordance with the provisions of the current statutes and rules. Unless specifically set out in this rule, this rule is not intended to and does not supersede any pre-existing federal or state statutes or rules and is not meant to alter or amend the applicable standard of care in any particular field of medicine or to amend any requirement for the establishment of a physician-patient relationship.”

[TENN. COMP. R. & REGS. 0880-02-.16.](#)

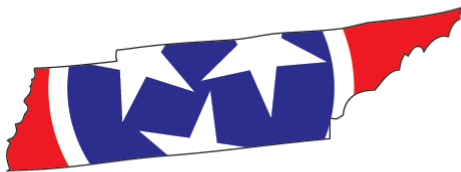
The Board of Medical Examiners revised its telemedicine licensing requirement, which was effective beginning October 31, 2016:

Telemedicine Licenses Issued Under Previous Rule – As of the effective date of this rule, the Board will no longer issue what was previously termed a “telemedicine license.” Individuals previously granted a telemedicine license under the former version of this rule may apply to have the license converted to a full license. Such individuals must complete the application for a full license and provide all necessary documentation, though no new application fee will be required as long as application is made within two years of the effective date of this rule. Individuals who do not convert to a full license (or do not qualify for full licensure) will retain the telemedicine license subject to the following conditions:

(a) The license must be timely renewed on a biennial basis, as required pursuant to Rule 0880-02-.09. Notwithstanding Rule 0880-02-.09, however, licenses not timely renewed will not be subject to re-instatement and affected individuals wishing to engage in the practice of medicine on patients located in Tennessee will be required to make application for a full license, including payment of the application fee.

(b) Telemedicine license holders must maintain current ABMS specialty board-certification. Licensees who do not maintain ABMS specialty board-certification will not be entitled to renewal of the license.

(c) Licensees retaining a telemedicine license are limited to the provision of medical interpretation services in the area of their specialty board-certification. Such license holders do not possess prescriptive authority in Tennessee.

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(d) All telemedicine licenses are subject to discipline for the same causes and pursuant to the same procedures as active, unrestricted licenses.

[TENN. COMP. R. & REGS. 0880-02-.16\(2\).](#)

However, the following persons are exempt from Tennessee's telemedicine licensure requirement:

(a) Licensed physicians of other states when called in consultation regarding specific clinical or scientific aspects of the field of medicine by a Tennessee licensed/registered physician as provided by T.C.A. § 63-6-204(a)(3);

(b) US Military physicians operating within the Federal jurisdiction and regulations related to their duties as provided by T.C.A. § 63-6-204(a)(3);

(c) The informal practice of medicine between physicians in the form of uncompensated professional dialogue regarding aspects of the field of medicine; and

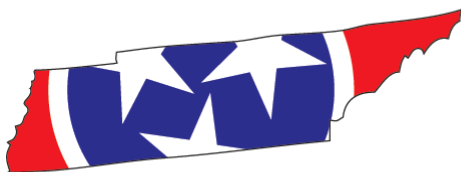
(d) A recognized, highly specialized, licensed physician from another state or country who specializes in the diagnosis and/or treatment of rare or orphan diseases and who provides consultation to research hospitals, with or without compensation or the expectation of compensation.

[TENN. COMP. R. & REGS. 0880-02-.16\(4\).](#)

With respect to transferring medical information outside the state, the Tennessee Medical Practice Act provides that “[t]he transfer of patient medical information to a person in another state who is not licensed to practice medicine or osteopathy in Tennessee, using any electronic, telephonic, or fiber optic means or by any other method, constitutes the practice of medicine or osteopathy if such information is employed to diagnose and/or treat, any person physically located within the state of Tennessee.” The provision further provides that “the transfer of such information does not constitute the practice of medicine if . . . such information is to be used for a second opinion requested by a Tennessee-licensed medical doctor or doctor of osteopathy—provided, however, that no charges are assessed for such second opinion”

[TENN. CODE ANN. § 63-6-231\(a\) and \(b\)\(2\)](#)

See also [TENN. CODE ANN. § 63-6-214\(b\)\(21\)\(A\)](#), which provides that the following may be grounds for license denial, suspension, or revocation, with limited exceptions: “[t]ransferring of patient medical information to a person in another state who is not licensed to practice medicine or osteopathy in the state of Tennessee using any electronic, telephonic or fiber optic means or by any other method if such information is

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employed to diagnose and/or treat persons physically located within the state of Tennessee”

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

The Tennessee Board of Medical Examiners has certain requirements for establishing or maintaining the physician-patient relationship via telemedicine:

(6) Notwithstanding the requirements of Rule 0880-02-.14(7), a physician licensed in Tennessee may engage in the practice of telemedicine under the following circumstances:

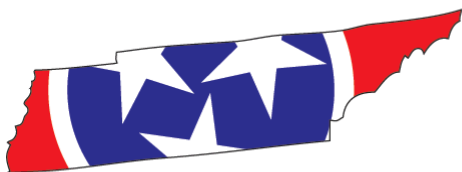
(a) Except as provided under paragraphs seven (7) and eight (8) of this rule, the patient encounter to establish or maintain the physician-patient relationship via telemedicine between the physician in a remote location and the patient in Tennessee may occur with or without the use of a facilitator so long as such encounter is consistent with parts 1 and 2 of this Rule:

1. If no facilitator is present:

- i. The patient must utilize adequately sophisticated technology to enable the remote provider to verify the patient's identity and location with an appropriate level of confidence; and
- ii. The patient must transmit all relevant health information at the level of store-and-forward technology or secure video conferencing; and
- iii. The remote provider must disclose his or her name, current and primary practice location, medical degree and recognized specialty area, if any, and in accordance with T.C.A. § 63-1-109.

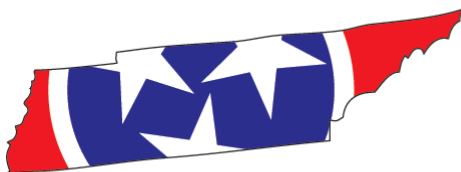
2. If a facilitator is present:

- i. The facilitator must personally verify the identity of the patient; however, all relevant health information must be transmitted to the remote provider using at least the level of store-and-forward technology. The facilitator and the patient may interact with the provider at the remote location via secure video conferencing or store-and-forward technology; and

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- ii. The facilitator must identify themselves, their role, and their title to the patient and the remote physician; and
 - iii. The remote provider must disclose his or her name, current and primary practice location, medical degree and recognized specialty area, if any, and all additional information required pursuant to T.C.A. § 63-1-109.
- (b) For patient encounters conducted via telemedicine, the physician should have appropriate patient record(s) or be able to obtain such information during the telemedicine encounter.
- (c) The physician engaging in telemedicine is responsible for ensuring that the medical record contains all pertinent data and information gleaned from the encounter. Any physician conducting a patient encounter via telemedicine must so document in the patient record and must state the technology used. All records for Tennessee patients are subject to inspection pursuant to T.C.A. § 63-1-117.
- (d) If the information transmitted through electronic or other means as part of a patient's encounter is not of sufficient quality or does not contain adequate information for the physician to form an opinion, the physician must declare they cannot form an opinion to make an adequate diagnosis and must request direct referral for inspection and actual physical examination, request additional data, or recommend the patient be evaluated by the patient's primary physician or other local health care provider.
- (7) A physician licensed by the Board may, if requested to do so by another physician licensed by the Board, engage in medical interpretation as defined in these rules and render an opinion based on data which is transmitted electronically. In such cases, the physician providing the medical interpretation need not examine the patient and need not have the complete medical record accessible, unless the interpreting physician believes that additional information is necessary. Any opinion rendered by such interpreting physician must be reduced to writing which includes the name and electronic signature of the interpreting physician.
- (8) No patient seeking care via telemedicine who is under the age of eighteen (18) years of age can be treated unless there is a facilitator present, except as otherwise authorized by law.

[TENN. COMP. R. & REGS. 0880-02-16\(6\)-\(8\).](#)

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

According to the Tennessee Board of Medical Examiners, a physician may not prescribe controlled substances via telemedicine if the physician has a telemedicine license. The Board further states the following:

A physician who elects to maintain his or her telemedicine license rather than converting to a full and unrestricted medical license may not prescribe. All other physicians with a full and unrestricted medical license may prescribe controlled substances in accordance with Tenn. Comp. R. & Regs. 0880-02-.14(6)(e)(3) and 0880-02-.14(7)(a). This rule requires that a physician, before prescribing or dispensing any drug to any individual by any means, must 1) perform an appropriate history and physical examination; 2) make a diagnosis upon the examinations and all diagnostic and laboratory tests consistent with good medical care; 3) formulate and discuss a therapeutic plan with the patient, as well as the basis for the plan, the risks and benefits of various treatment options; and 4) insure availability of the physician or coverage for the patient for appropriate follow-up care. Exceptions to this general rule are provided in Rule 0880-02-.14(7)(b).

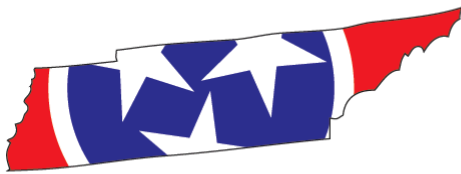
TENN. CODE ANN. § 63-1-155 provides that a healthcare provider who delivers medical services via telemedicine should be held to the same standard of professional practice as a provider working in a traditional, in-person setting. This statute includes with two important caveats: 1) telemedicine encounters will be governed by the [Tennessee Chronic Pain Guidelines](#)—which explicitly prohibit the treatment of chronic pain through telemedicine—; and 2) the general rule of equivalent standards does not apply when medical services are being provided in a pain management clinic.

Federal regulation may limit a physician's ability to prescribe controlled substances electronically without first performing at least one in-person assessment of the patient. Prescribers are encouraged to consult with personal counsel to determine whether their intended prescribing practices violate federal laws or regulation.

[Tennessee Board of Medical Examiners, FAQ: Telemedicine \(Nov. 2016\).](#)

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

As stated in the definition of “telemedicine” within Tennessee’s medical practice regulations, “[t]elemedicine is not an audio only telephone conversation, email/instant messaging conversation or fax. It typically involves the application of secure video



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conferencing or store-and-forward to provide or support healthcare delivery by replicating the interaction of a traditional encounter between a provider and a patient.”

[TENN. COMP. R. & REGS. 0880-02-.16\(1\)\(g\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

According to the Tennessee Board of Medical Examiners, “the practice of medicine occurs where the patient is located. The physician and the APRN or PA must be licensed in the state where the patient is located. The supervisory relationship must be in accordance with all applicable rules governing a physician’s supervision of a PA or APRN, including the requirement that the physician visit the remote site at least once every thirty (30) days. This is true even if the PA or APRN’s primary practice setting (i.e., the remote sit) is out of the state of Tennessee, or within its borders, but geographically distant. A remote site visit may not occur via Skype or other videoconferencing technology.”

[Tennessee Board of Medical Examiners, FAQ: Telemedicine \(Nov. 2016\).](#)

PRIVACY/CONFIDENTIALITY

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

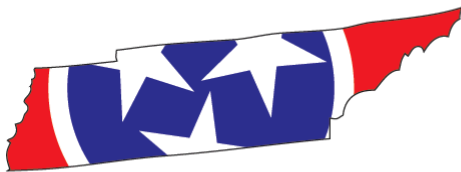
Updated citation: [TENN. CODE ANN. § 33-3-105.](#)

MINORS

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

Under Tennessee’s medical practice regulations, “[n]o patient seeking care via telemedicine who is under the age of eighteen (18) years of age can be treated unless there is a facilitator present, except as otherwise authorized by law.”

[TENN. COMP. R. & REGS. 0880-02-.16\(8\).](#)



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According to the Tennessee Board of Medical Examiners, “[w]hile it may be recommended, it is not required for the facilitator to be present for the entire encounter. A physician should act in accordance with the standard of care and applicable law when deciding whether a facilitator should be present for a patient encounter. However, the facilitator must: personally verify the identity of the patient and must identify themselves, their role and title to the patient.”

[Tennessee Board of Medical Examiners, FAQ: Telemedicine \(Nov. 2016\).](#)

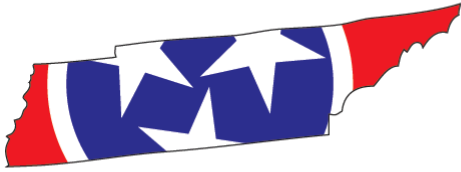
What are the requirements/laws governing the prescribing of “controlled” substances?”

According to the Tennessee Board of Medical Examiners, a physician may not prescribe controlled substances via telemedicine if the physician has a telemedicine license. The Board further states the following:

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[Tennessee Board of Medical Examiners, *FAQ: Telemedicine* \(Nov. 2016\).](#)