

VIRGINIA

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

Related to insurance coverage, the term “telemedicine services” means “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.”

[VA. CODE ANN. § 38.2-3418.16\(B\).](#)

“‘Telehealth’ means the real time or near real time two-way transfer of data and information using an interactive audio and video connection for the purposes of medical diagnosis and treatment.”

[12 VA. ADMIN. CODE § 30-121-70\(B\)\(7\)\(b\).](#)

“‘Telemedicine’ means the practice of the medical arts via electronic means rather than face-to-face.”

[12 VA. ADMIN. CODE § 30-130-5020.](#)

PSYCHIATRISTS

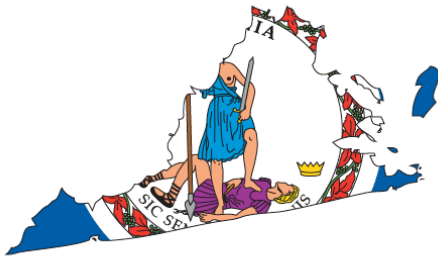
What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

Updated citation: [Virginia Board of Medicine, Guidance Document no. 85-12, Telemedicine \(revised June 22, 2017\).](#)

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

“[A] practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care.”

[Virginia Board of Medicine, Guidance Document no. 85-12, Telemedicine \(revised June 22, 2017\).](#)

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

A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

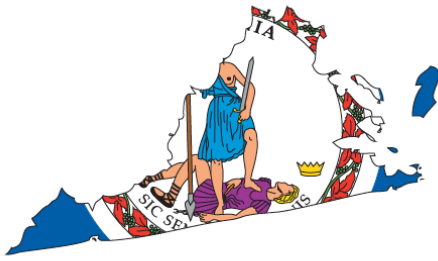
[Virginia Board of Medicine, Guidance Document no. 85-12, *Telemedicine* \(revised June 22, 2017\).](#)

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

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.

[Virginia Board of Medicine, Guidance Document no. 85-12, *Telemedicine* \(revised June 22, 2017\).](#)

Prescribing controlled substances requires the establishment of a bona fide practitioner-patient relationship in accordance with § 54.1-3303 (A) of the Code of Virginia. Prescribing controlled substances, in-person or via telemedicine services, is at the professional discretion of the prescribing practitioner. The indication, appropriateness, and safety considerations for each prescription provided via telemedicine services must be evaluated by the practitioner in accordance with applicable law and current standards of practice and consequently carries the same professional accountability as prescriptions delivered during an in-person encounter. Where such measures are upheld, and

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the appropriate clinical consideration is carried out and documented, the practitioner may exercise their judgment and prescribe controlled substances as part of telemedicine encounters in accordance with applicable state and federal law.

Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Prescribing controlled substances in Schedule II through V via telemedicine also requires compliance with federal rules for the practice of telemedicine. Practitioners issuing prescriptions as part of telemedicine services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

[Virginia Board of Medicine, Guidance Document no. 85-12, *Telemedicine* \(revised June 22, 2017\).](#)

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?

Equipment utilized for telemedicine must be of sufficient audio quality and visual clarity as to be functionally equivalent to a face-to-face encounter for professional medical services. Staff must be proficient in the operation and use of the telemedicine equipment. Telephone calls, e-mail, facsimile transmissions and similar electronic measure are not considered part of the telemedicine coverage and are not to be billed to DMAS.

[Virginia Department of Medical Assistance Services, *Physician/Practitioner Manual: Covered Services and Limitations* \(ch. IV\) \(revised June 30, 2017\), at 16.](#)

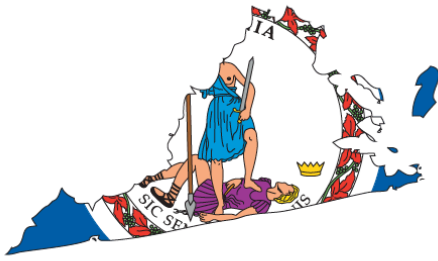
PSYCHOLOGISTS

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

None identified, but a license to practice psychology is required.

"In order to engage in the practice of applied psychology, school psychology, or clinical psychology, it shall be necessary to hold a license."

[VA. CODE ANN. § 54.1-3606\(A\).](#)



50-State Survey of Telemental/Telebehavioral Health

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Updated link: [VA. CODE ANN. § 54.1-3601\(7\).](#)

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

Updated link: [VA. CODE ANN. § 54.1-3602.](#)

COUNSELORS

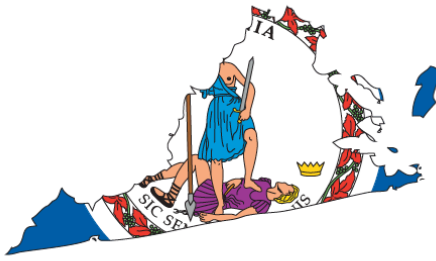
What are the restrictions on the scope of practice for counselors practicing via telemedicine/telehealth?

Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.

Therefore, the standards of practice set forth in section 130 of the regulations and in the Code of Virginia apply regardless of the method of delivery. The Board of Counseling recommends the following when a licensee uses technology-assisted counseling as the delivery method:

1. Counseling is most commonly offered in a *face-to-face relationship*. *Counseling that from the outset is delivered in a technology-assisted manner may be problematic in that the counseling relationship, client identity and other issues may be compromised.*
2. *The counselor must take steps to protect client confidentiality and security.*
3. *The counselor should seek training or otherwise demonstrate expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and security.*
4. *When working with a client who is not in Virginia*, counselors are advised to check the regulations of the state board in which the client is located. It is important to be mindful that certain states prohibit counseling by an individual who is unlicensed by that state.
5. Counselors must follow the same code of ethics for technology-assisted counseling as they do in a traditional counseling setting.

[Virginia Board of Counseling, Guidance Document no. 115-1.4, Guidance on Technology-Assisted Counseling and Technology-Assisted Supervision \(revised Nov. 13, 2015\).](#)



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MARRIAGE/FAMILY THERAPISTS

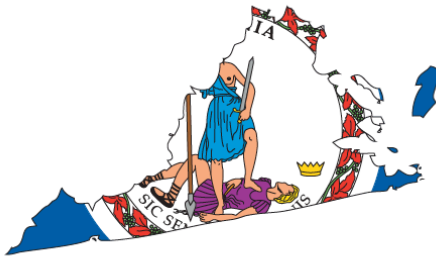
What are the restrictions on the scope of practice for marriage/family therapists practicing via telemedicine/telehealth?

Regardless of the delivery method, whether in person, by phone or electronically, these standards shall apply to the practice of counseling.

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1. Counseling is most commonly offered in a *face-to-face relationship*. *Counseling that from the outset is delivered in a technology-assisted manner may be problematic in that the counseling relationship, client identity and other issues may be compromised.*
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3. *The counselor should seek training or otherwise demonstrate expertise in the use of technology-assisted devices, especially in the matter of protecting confidentiality and security.*
4. *When working with a client who is not in Virginia*, counselors are advised to check the regulations of the state board in which the client is located. It is important to be mindful that certain states prohibit counseling by an individual who is unlicensed by that state.
5. Counselors must follow the same code of ethics for technology-assisted counseling as they do in a traditional counseling setting.

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ADVANCED PRACTICE REGISTERED NURSES (APRNs)

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

"[S]ome situations and patient presentations are appropriate for the utilization of telemedicine services as a component of, or in lieu of, in-person provision of medical care, while others are not. The practitioner is responsible for making this determination, and in doing so must adhere to applicable laws and standards of care."

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

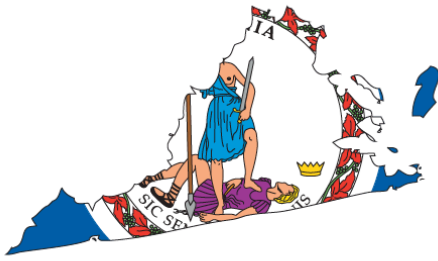
It is the expectation of the Board that practitioners who provide medical care, electronically or otherwise, maintain the highest degree of professionalism and should:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the applicable profession;
- Adhere to applicable laws and regulations;
- In the case of physicians, properly supervise non-physician clinicians when required to do so by statute; and
- Protect patient confidentiality.

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

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

The practice of medicine occurs where the patient is located at the time telemedicine services are used, and insurers may issue reimbursements based on where the practitioner is located. Therefore, a practitioner must be licensed by, or under the jurisdiction of, the regulatory board of the state where the patient is located and the state where the practitioner is located. Practitioners who treat or prescribe through online service sites must possess appropriate licensure in all jurisdictions where patients receive care. To ensure appropriate insurance coverage, practitioners must make certain that they are compliant with federal and state laws and policies regarding reimbursements.



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[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

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

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.

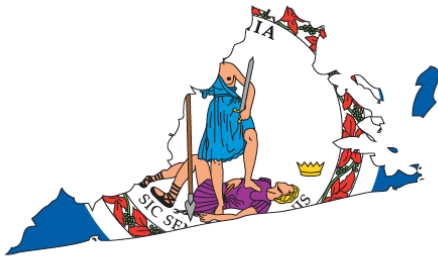
A practitioner is discouraged from rendering medical advice and/or care using telemedicine services without (1) fully verifying and authenticating the location and, to the extent possible, confirming the identity of the requesting patient; (2) disclosing and validating the practitioner's identity and applicable credential(s); and (3) obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including any special informed consents regarding the use of telemedicine services. An appropriate practitioner-patient relationship has not been established when the identity of the practitioner may be unknown to the patient.

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

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

For the purpose of prescribing controlled substances, 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. A practitioner should conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation.

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)



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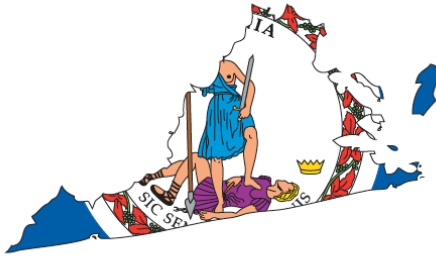
A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided must be obtained prior to providing treatment, which 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.

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Prescriptions must comply with the requirements set out in Virginia Code §§ 54.1-3408.01 and 54.1-3303(A). Prescribing controlled substances in Schedule II through V via telemedicine also requires compliance with federal rules for the practice of telemedicine. Practitioners issuing prescriptions as part of telemedicine services should include direct contact for the prescriber or the prescriber's agent on the prescription. This direct contact information ensures ease of access by pharmacists to clarify prescription orders, and further facilitates the prescriber-patient-pharmacist relationship.

[Virginia Board of Nursing, Guidance Document no. 90-64, *Telemedicine for Nurse Practitioners* \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)



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

“Telemedicine services’ does not include an audio-only telephone, electronic mail message, facsimile transmission, or online questionnaire.”

[Virginia Board of Nursing, Guidance Document no. 90-64, Telemedicine for Nurse Practitioners \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\) \(emphasis in original\).](#)

PRIVACY/CONFIDENTIALITY

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

Written policies and procedures should be maintained for documentation, maintenance, and transmission of the records of encounters using telemedicine services. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the practitioner addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

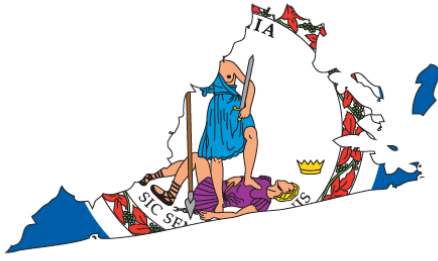
[Virginia Board of Medicine, Guidance Document no. 85-12, Telemedicine \(revised June 22, 2017\).](#)

[Virginia Board of Nursing, Guidance Document no. 90-64, Telemedicine for Nurse Practitioners \(revised June 22, 2017, by Virginia Board of Medicine and revised July 18, 2017, by Virginia Board of Nursing\).](#)

FOLLOW-UP CARE

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

Updated link: [VA. CODE ANN. § 54.1-3303.](#)



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COVERAGE & REIMBURSEMENT

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

Updated citation: [Virginia Department of Medical Assistance Services, Physician/Practitioner Manual: Billing Instructions \(ch. V\) \(revised May 1, 2017\), at 23-25.](#)

CONTROLLED SUBSTANCES

How are “controlled substances” defined by the state?

Updated link: [VA. CODE ANN. § 54.1-3401.](#)

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

Updated link: [VA. CODE ANN. § 54.1-3303.](#)