



## WEST VIRGINIA

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

**Updated link:** [West Virginia Department of Health and Human Resources, Medicaid Provider Manual, ch. 519.17 Telehealth Services \(eff. Jan. 15, 2016\).](#)

“‘Telemedicine’ means the practice of medicine using tools such as electronic communication, information technology, store and forward telecommunication, or other means of interaction between a physician or podiatrist in one location and a patient in another location, with or without an intervening healthcare provider.”

[W. VA. CODE § 30-3-13a\(a\)\(4\).](#)

“For purposes of Medicaid, telemedicine seeks to improve a patient's health by permitting two-way, real time interactive communication between the patient, and the physician or practitioner at the distant site. This electronic communication means the use of interactive telecommunications equipment that includes, at a minimum, audio and video equipment.”

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch. 200 \(Nov. 1, 2016\), at 19.](#)

## PSYCHIATRISTS

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

A physician or podiatrist using telemedicine technologies to practice medicine or podiatry shall:

- (1) Verify the identity and location of the patient;
- (2) Provide the patient with confirmation of the identity and qualifications of the physician or podiatrist;
- (3) Provide the patient with the physical location and contact information of the physician;
- (4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms to the standard of care;



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- (5) Determine whether telemedicine technologies are appropriate for the particular patient presentation for which the practice of medicine or podiatry is to be rendered;
- (6) Obtain from the patient appropriate consent for the use of telemedicine technologies;
- (7) Conduct all appropriate evaluations and history of the patient consistent with traditional standards of care for the particular patient presentation; and
- (8) Create and maintain healthcare records for the patient which justify the course of treatment and which verify compliance with the requirements of this section. . . .

### [W. VA. CODE § 30-3-13a\(d\).](#)

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

“It is unlawful for any person who does not hold an active, unexpired license issued pursuant to this article to engage in the practice of telemedicine within this state. . . .”

### [W. VA. CODE § 30-3-13\(b\).](#)

- (1) The practice of medicine occurs where the patient is located at the time the telemedicine technologies are used.
- (2) A physician or podiatrist who practices telemedicine must be licensed as provided in this article.
- (3) This section does not apply to: (A) An informal consultation or second opinion, at the request of a physician or podiatrist who is licensed to practice medicine or podiatry in this state, provided that the physician or podiatrist requesting the opinion retains authority and responsibility for the patient's care; and (B) Furnishing of medical assistance by a physician or podiatrist in case of an emergency or disaster, if no charge is made for the medical assistance.

### [W. VA. CODE § 30-3-13a\(b\).](#)

West Virginia has adopted the Interstate Medical Licensure Compact.

### [W. VA. CODE § 30-1C-1 et seq.](#)

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

- (1) A physician-patient or podiatrist-patient relationship may not be established through: (A) Audio-only communication; (B) Text-based communications such as e-mail, internet questionnaires, text-based messaging or other written forms of communication; or (C) Any combination thereof.
- (2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient or podiatrist-patient relationship may only be established: (A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient or podiatrist-patient encounter; or (B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.
- (3) Once a physician-patient or podiatrist-patient relationship has been established, either through an in-person encounter or in accordance with subsection (c)(2) of this section, the physician or podiatrist may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

[W. VA. CODE § 30-3-13a\(c\).](#)

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

- (1) A physician or podiatrist who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act.
- (2) A physician or podiatrist may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of treatment for chronic non-malignant pain solely based upon a telemedicine encounter.

[W. VA. CODE § 30-3-13a\(g\).](#)



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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?

(1) A physician-patient or podiatrist-patient relationship may not be established through: (A) Audio-only communication; (B) Text-based communications such as e-mail, internet questionnaires, text-based messaging or other written forms of communication; or (C) Any combination thereof.

(2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to the utilization to telemedicine technologies, or if services are rendered solely through telemedicine technologies, a physician-patient or podiatrist-patient relationship may only be established: (A) Through the use of telemedicine technologies which incorporate interactive audio using store and forward technology, real-time videoconferencing or similar secure video services during the initial physician-patient or podiatrist-patient encounter; or (B) For the practice of pathology and radiology, a physician-patient relationship may be established through store and forward telemedicine or other similar technologies.

(3) Once a physician-patient or podiatrist-patient relationship has been established, either through an in-person encounter or in accordance with subsection (c)(2) of this section, the physician or podiatrist may utilize any telemedicine technology that meets the standard of care and is appropriate for the particular patient presentation.

[W. VA. CODE § 30-3-13a\(c\).](#)

## PSYCHOLOGISTS

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

“The provider at the distant site is responsible to maintain standards of care within the scope of practice.”

“The provider who has the ultimate responsibility for the care of the patient must first obtain verbal and written consent from the recipient, including as listed below:

- The right to withdraw at any time
- A description of the risks, benefits and consequences of telemedicine
- Application of all existing confidentiality protections



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- Right of the patient to documentation regarding all transmitted medical information
- Prohibition of dissemination of any patient images or information to other entities without further written consent.”

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch. 521 \(Apr. 1, 2015\), at 9.](#)

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

**Updated link:** [W. VA. CODE R. § 17-3-6.](#)

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

**Updated link:** [West Virginia Board of Examiners of Psychologists, Policy Statements: Tele-Psychology.](#)

Minimum equipment standards are transmission speeds of 256kbps or higher over ISDN (Integrated Services Digital Network) or proprietary network connections including VPNs (Virtual Private Networks), fractional T1, or T1 comparable cable bandwidths. Software that has been developed for the specific use of Telehealth may be used as long as the software is HIPAA Compliant and abides by a federal code pertaining to Telehealth.

The audio, video, and/or computer telemedicine system used must, at a minimum, have the capability of meeting the procedural definition of the code provided through telemedicine. The telecommunication equipment must be of a quality to complete adequately all necessary components to document the level of service for the CPT codes that are available to be billed. If a peripheral diagnostic scope is required to assess the patient, it must provide adequate resolution or audio quality for decision-making.

[West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch. 521 \(Apr. 1, 2015\), at 9.](#)

“Reimbursement is not available for a telephone conversation, electronic mail message (e-mail), or facsimile transmission (fax) between a provider and a member.”



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[\*West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch. 521 \(Apr. 1, 2015\), at 9.\*](#)

### SOCIAL WORKERS

What is the regulatory body in the state that governs the practice of social work?

**Updated link:** [West Virginia Board of Social Work](#)

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

"The provider at the distant site is responsible to maintain standards of care within the scope of practice."

[\*West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch.537 \(July 1, 2015\), at 9.\*](#)

"The provider who has the ultimate responsibility for the care of the patient must first obtain verbal and written consent from the recipient, including as listed below:

- The right to withdraw at any time
- A description of the risks, benefits and consequences of telemedicine
- Application of all existing confidentiality protections
- Right of the patient to documentation regarding all transmitted medical information
- Prohibition of dissemination of any patient images or information to other entities without further written consent."

[\*West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch.537 \(July 1, 2015\), at 9.\*](#)

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

Minimum equipment standards are transmission speeds of 256kbps or higher over ISDN (Integrated Services Digital Network) or proprietary network connections including VPNs (Virtual Private Networks), fractional T1, or T1 comparable cable bandwidths. Software that has been developed for the specific use of Telehealth



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[\*West Virginia Department of Health & Human Resources, Bureau for Medical Services, BMS Provider Manual, ch.537 \(July 1, 2015\), at 8-9.\*](#)

### PRIVACY/CONFIDENTIALITY

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

The patient record established during the use of telemedicine technologies shall be accessible and documented for both the physician or podiatrist and the patient, consistent with the laws and legislative rules governing patient healthcare records. All laws governing the confidentiality of healthcare information and governing patient access to medical records shall apply to records of practice of medicine or podiatry provided through telemedicine technologies. A physician or podiatrist solely providing services using telemedicine technologies shall make documentation of the encounter easily available to the patient, and subject to the patient's consent, to any identified care provider of the patient.

[W. VA. CODE § 30-3-13a\(f\).](#)

### CONTROLLED SUBSTANCES

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

(1) A physician or podiatrist who practices medicine to a patient solely through the utilization of telemedicine technologies may not prescribe to that patient any controlled substances listed in Schedule II of the Uniform Controlled Substances Act.



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(2) A physician or podiatrist may not prescribe any pain-relieving controlled substance listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of treatment for chronic non-malignant pain solely based upon a telemedicine encounter.

[W. VA. CODE § 30-3-13a\(g\).](#)