

State	Citation and Provisions <sup>1</sup>	Notes
	<p>(4) In accordance with Subsection 26-60-103(1)(c), a provider offering telehealth services shall be available to the patient for subsequent care related to the initial telemedicine services, by:</p> <ul style="list-style-type: none"> <li>(a) providing the patient with a clear mechanism to: <ul style="list-style-type: none"> <li>(i) access, supplement, and amend patient-provided personal health information;</li> <li>(ii) contact the provider for subsequent care;</li> <li>(iii) obtain upon request an electronic or hard copy of the patient's medical record documenting the telemedicine services, including the informed consent provided; and</li> <li>(iv) request a transfer to another provider of the patient's medical record documenting the telemedicine services;</li> </ul> </li> <li>(b) if the provider recommends that the patient needs to be seen in person, such as where diagnosis requires a physical examination, lab work, or imaging studies: <ul style="list-style-type: none"> <li>(i) arranging to see the patient in person, or directing the patient to the patient's regular provider, or if none, to an appropriate provider; and</li> <li>(ii) documenting the recommendation in the patient's medical record; and</li> </ul> </li> <li>(c) upon patient request, electronically transferring to another provider the patient's medical record documenting the telemedicine services, within a reasonable time frame allowing for timely care of the patient by that provider.</li> </ul> <p>(5) In accordance with Subsection 26-60-103(1)(d), a provider offering telehealth services shall be familiar with available medical resources, including emergency resources near the originating site.</p> <p>(6) In settings and circumstances where an established provider-patient relationship is not present, a provider offering telehealth services shall establish a provider-patient relationship during the patient encounter, in a manner consistent with standards of practice including providing the provider's licensure and credentials.</p> <p>(7) Nothing in this section shall prohibit electronic communications consistent with standards of practice applicable in traditional health care settings, including those:</p> <ul style="list-style-type: none"> <li>(a) between a provider and a patient with a preexisting provider-patient relationship;</li> <li>(b) between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;</li> <li>(c) in on-call or cross coverage situations in which the provider has access to patient records;</li> <li>(d) in broader practice models where multiple providers provide care as a team, including, for example: <ul style="list-style-type: none"> <li>(i) within an existing organization; or</li> <li>(ii) within an emergency department; or</li> </ul> </li> <li>(e) in an emergency, which as used in this section means a situation in which there is an occurrence posing an imminent threat of a life-threatening condition or severe bodily harm.</li> </ul>	
Vermont		No statute or regulations specific to OT and telehealth.
Virginia	<b><u>Board of Medicine Guidance Document 85-12:</u></b> <b>Section One: Preamble.</b>	

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	<p>The Virginia Board of Medicine ("Board") recognizes that using telemedicine services in the delivery of medical services offers potential benefits in the provision of medical care. The appropriate application of these services can enhance medical care by facilitating communication between practitioners, other health care providers, and their patients, prescribing medication, medication management, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information, and clarifying medical advice. With the exception of prescribing controlled substances, the Virginia General Assembly has not established statutory parameters regarding the provision and delivery of telemedicine services. Therefore, practitioners must apply existing laws and regulations to the provision of telemedicine services. The Board issues this guidance document to assist practitioners with the application of current laws to telemedicine service practices.</p> <p>These guidelines should not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not authorized by law. In fact, these guidelines support a consistent standard of care and scope of practice notwithstanding the delivery tool or business method used to enable practitioner-to-patient communications. 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. As such, some 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.</p> <p>The Board has developed these guidelines to educate licensees as to the appropriate use of telemedicine services in the practice of medicine. The Board is committed to ensuring patient access to the convenience and benefits afforded by telemedicine services, while promoting the responsible provision of health care services.</p> <p>It is the expectation of the Board that practitioners who provide medical care, electronically or otherwise, maintain the highest degree of professionalism and should:</p> <ul style="list-style-type: none"> <li>• Place the welfare of patients first;</li> <li>• Maintain acceptable and appropriate standards of practice;</li> <li>• Adhere to recognized ethical codes governing the applicable profession;</li> <li>• Adhere to applicable laws and regulations;</li> <li>• In the case of physicians, properly supervise non-physician clinicians when required to do so by statute; and</li> <li>• Protect patient confidentiality.</li> </ul> <p><b>Section Two: Establishing the Practitioner-Patient Relationship.</b></p>	

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	<p>The practitioner-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Board that practitioners recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a practitioner-patient relationship. Where an existing practitioner-patient relationship is not present (This guidance document is not intended to address existing patient-practitioner relationships established through in-person visits.) 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. (The practitioner must adhere not only to Virginia law defining a practitioner-patient relationship, but the law in any state where a patient is receiving services that defines the practitioner-patient relationship.) While each circumstance is unique, such practitioner-patient relationships may be established using telemedicine services provided the standard of care is met.</p> <p>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.</p> <p><b>Section Three: Guidelines for the Appropriate Use of Telemedicine Services.</b>  The Board has adopted the following guidelines for practitioners utilizing telemedicine services in the delivery of patient care, regardless of an existing practitioner-patient relationship prior to an encounter.</p> <p><u>Licensure:</u>  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.</p> <p><u>Evaluation and Treatment of the Patient:</u>  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,</p>	

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	<p>including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.</p> <p><u>Informed Consent:</u> Evidence documenting appropriate patient informed consent for the use of telemedicine services must be obtained and maintained. Appropriate informed consent should, as a baseline, include the following:</p> <ul style="list-style-type: none"> <li>• Identification of the patient, the practitioner, and the practitioner's credentials;</li> <li>• Types of activities permitted using telemedicine services (e.g. prescription refills, appointment scheduling, patient education, etc.);</li> <li>• Agreement by the patient that it is the role of the practitioner to determine whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;</li> <li>• Details on security measures taken with the use of telemedicine services, such as encrypting date of service, password protected screen savers, encrypting data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;</li> <li>• Hold harmless clause for information lost due to technical failures; and</li> <li>• Requirement for express patient consent to forward patient-identifiable information to a third party.</li> </ul> <p><u>Medical Records:</u> The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-practitioner communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine services. Informed consents obtained in connection with an encounter involving telemedicine services should also be filed in the medical record. The patient record established during the use of telemedicine services must be accessible to both the practitioner and the patient, and consistent with all established laws and regulations governing patient healthcare records.</p> <p><u>Privacy and Security of Patient Records and Exchange of Information:</u> 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.</p>	
Washington	<p><b><u>Regulation:</u> Washington Administrative Code Title 246, Chapter 847, Section 176, Telehealth.</b> (1) "Telehealth" means providing occupational therapy via electronic communication where the occupational therapist or occupational therapy assistant and the patient are not at the same physical location.</p>	