

# Telehealth Resource Centers



## National Telehealth Resource Centers (NTRCs):

National Telehealth Policy Resource Center  
[www.telehealthpolicy.us](http://www.telehealthpolicy.us)

National Telehealth Technology Assessment Resource Center  
[www.telehealthtechnology.org](http://www.telehealthtechnology.org)

## Regional Telehealth Resource Centers (RTRCs):

California Telehealth Resource Center (CA)  
[www.caltrc.org](http://www.caltrc.org)

Great Plains Telehealth Resource and Assistance Center  
(ND, SD, MN, IA, WI, NE)  
[www.gptrac.org](http://www.gptrac.org)

Heartland Telehealth Resource Center  
(KS, MO, OK)  
[www.heartlandtrc.org](http://www.heartlandtrc.org)

Mid-Atlantic Telehealth Resource Center  
(VA, WV, KY, MD, DE, NC, PA, DC)  
[www.matrc.org](http://www.matrc.org)

NorthEast Telehealth Resource Center  
(CT, MA, ME, NH, NY, RI, VT)  
[www.netrc.org](http://www.netrc.org)

Northwest Regional Telehealth Resource Center  
(MT, WA, AK, OR, ID, UT, WY)  
[www.nrtrc.org](http://www.nrtrc.org)

Pacific Basin Telehealth Resource Center  
(HI, Pacific Basin)  
[www.pbtrc.org](http://www.pbtrc.org)

South Central Telehealth Resource Center  
(AR, MS, TN)  
[www.learntelehealth.org](http://www.learntelehealth.org)

Southeast Telehealth Resource Center  
(GA, SC, FL, AL)  
[www.setrc.us](http://www.setrc.us)

Southwest Telehealth Resource Center  
(AZ, CO, NM, NV, UT)  
[www.southwesttrc.org](http://www.southwesttrc.org)

TexLa Telehealth Resource Center  
(TX, LA)  
[www.texlatrc.org](http://www.texlatrc.org)

Upper Midwest Telehealth Resource Center  
(IN, IL, MI, OH)  
[www.umtrc.org](http://www.umtrc.org)

<http://www.telehealthresourcecenter.org>

## Federation of State Medical Boards Model Telemedicine Guidelines

Physician practice is regulated in each state by a state medical board whose authority is granted by the state legislature. Each state board functions independently of other states. This has led to variations in policies from state to state that physicians will need to understand and adhere to if they practice in multiple states. The Federation of State Medical Boards (FSMB) has attempted to offer some consistency by developing voluntary model policy guidelines (Model Guidelines) for state boards to adopt around the appropriate use of telemedicine technologies in the delivery of services. As technology improves and becomes more integrated into the health care system, boards will find themselves faced with questions regarding appropriate use of the technology. The National Consortium of Telehealth Resource Centers compliments the FSMB for re-examining its "Model Guidelines for the Appropriate Use of the Internet in Medical Practice" from 2002 to update these model guidelines. This analysis and summary is for informational purposes, and does not represent approval or support of the FSMB voluntary model guidelines.

The FSMB's State Medical Boards' Appropriate Regulation of Telemedicine (SMART) Workgroup was charged with the task of updating the Model Guidelines. The Model Guidelines are not laws or regulations, but suggestions for concepts, principles, and definitions that individual state medical boards may choose to utilize. Further, if and when state medical boards adopt any of these suggestions, they would only regulate the behavior of "licensees," that is, physicians who are licensed by the state medical board. Other state boards (nursing, psychology, social work, etc.) could choose to incorporate these principles as well, but are more likely to adopt other regulations from their own national bodies.

What follows is a summary of the FSMB Model Guidelines. Only a summary is provided, and should the reader wish to examine the full guidelines, they can be found at:

[http://www.fsmb.org/pdf/FSMB\\_Telemedicine\\_Policy.pdf](http://www.fsmb.org/pdf/FSMB_Telemedicine_Policy.pdf).

At the end of this document we offer a series of suggestions that state boards may wish to consider when formulating and adopting their own regulations.

## Summary of FSMB Model Guidelines

### SECTION 1: PREAMBLE

The preamble notes that the advancement of technology has had a profound impact on the practice of medicine, and offers opportunities for improving the delivery and accessibility of health care and potential benefits in the provision of care. However, a standard of care must be maintained. Whether care is provided in person or via telemedicine, a physician should always maintain the highest degree of professionalism and:

- Place the welfare of patients first;
- Maintain acceptable and appropriate standards of practice;
- Adhere to recognized ethical codes governing the medical profession;
- Properly supervise non-physician clinicians; and
- Protect patient confidentiality.<sup>1</sup>

### SECTION 2: ESTABLISHING THE PHYSICIAN-PATIENT RELATIONSHIP

The Model Guidelines state a physician-provider relationship is established when the physician agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an in-person encounter. Physicians are discouraged from rendering medical advice and/or care using telemedicine technologies without:

1. Fully verifying and authenticating the location and, to the extent possible, identifying the requesting patient;
2. Disclosing and validating the provider'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 technologies.<sup>2</sup>

### SECTION 3: DEFINITIONS

The Model Guidelines define "telemedicine" to mean:

***"The practice of medicine using electronic communications, information technology or other means between a licensee in one location, and a patient in another location with or without an intervening health care provider. Generally, telemedicine is not an audio-only, telephone conversation, email/instant messaging conversation or fax. It typically involves the application of secure videoconferencing or store and forward technology to provide or support health care delivery by replicating the interaction of a traditional, (sic) encounter in person between a provider and a patient."***<sup>3</sup>

The Model Guidelines offers one other term to be defined, "telemedicine technologies," which means:

***"Technologies and devices enabling secure electronic communications and information exchange between a licensee in one location and a patient in another location with or without an intervening healthcare provider."***<sup>4</sup>

## SECTION 4: GUIDELINES FOR APPROPRIATE USE OF TELEMEDICINE TECHNOLOGIES IN MEDICAL PRACTICE

**Licensure:** Under the Model Guidelines, the practice of medicine is defined to occur where the patient is located, and requires the physician to be licensed or under the jurisdiction of the medical board of the patient's state.

**Establishment of a Physician-Patient Relationship:** In establishing a physician-patient relationship, the Model Guidelines note that it may be created by "using telemedicine technologies provided the standard of care is met."

**Evaluation and Treatment of the Patient:** Documentation of a medical evaluation and collection of relevant clinical history must be obtained prior to treatment. Treatment and consultations in an online setting must be held to the same standards of appropriate practice as those in an in-person encounter. "Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care."<sup>5</sup>

**Informed Consent:** Patient informed consent on the use of telemedicine technologies must be obtained and maintained. The baseline for this informed consent should include:

- Identification of the patient, the physician, and the physician's credentials;
- Types of transmissions permitted using telemedicine technologies (e.g., prescription refills, appointment scheduling, patient education, etc.);
- The patient agrees that the physician determines whether or not the condition being diagnosed and/or treated is appropriate for a telemedicine encounter;
- Details on security measures taken with the use of telemedicine technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy notwithstanding such measures;
- Hold harmless clause for information lost due to technical failures; and
- Requirement for express patient consent to forward patient-identifiable information to a third party.

**Continuity of Care:** Patients should be able to seek follow-up care and information from the physician. The physician who has no existing physician-patient relationship prior to the telemedicine encounter must make documentation of it easily available to the patient and, with patient consent, any identified care provider of the patient immediately after the encounter.

**Referrals for Emergency Services:** If the care provided via telemedicine indicates the patient needs a referral to an acute care facility or ER for treatment, the physician must provide an emergency plan to the patient that includes a formal, written protocol appropriate to the services being rendered via telemedicine.

**Medical Records:** Medical records should include patient-related electronic communications, prescriptions, laboratory and test results, patient informed consent, and other items. The patient record established during the telemedicine visit must be accessible and documented for both the physician and patient, and consistent with established laws and regulations governing patient healthcare records.

**Privacy and Security of Patient Records and Exchange Information:** Physicians should meet or exceed federal and state requirements on medical/health information privacy, including complying with the Health Insurance Portability and Accountability Act (HIPAA) and other privacy and security laws. There should be written policies and procedures that maintain the same standard as in-person encounters, and sufficient privacy and security measures should be in place and documented to assure confidentiality and integrity of patient-identifiable information.

**Disclosures and Functionality on Online Services making Available Telemedicine Technologies:** Online services should clearly disclose:

- Specific services provided;
- Contact information for physician;
- Licensure and qualifications of physician(s) and associated physicians;
- Fees for services, and how payment is to be made;
- Financial interests, other than fees charged, in any information, products, or services provided by a physician;
- Appropriate uses and limitations of the site, including emergency health situations;
- Uses and response times for e-mails, electronic messages, and other communications transmitted via telemedicine technologies;
- To whom patient health information may be disclosed, and for what purpose;
- Rights of patients with respect to patient health information; and
- Information collected and any passive tracking mechanisms utilized.<sup>6</sup>

Online services used by telemedicine physicians should also provide patients a clear mechanism to:

- Access, supplement, and amend patient-provided personal health information;
- Provide feedback regarding the site and the quality of information and services; and
- Register complaints, including information regarding filing a complaint with the applicable state medical and osteopathic board(s).<sup>7</sup>

Additionally, the online services must have accurate transparent information about the website owner/operator, location, and contact information, including a domain name that accurately reflects the identity. Other than fees, a physician may not receive any direct remuneration, benefits, or incentives from any advertising or promotion of goods or products on the online services. Links may be provided to enhance the patient education, but the physician may not benefit financially from providing such link or the services/products marketed by them. "The maintenance of preferred relationships with any pharmacy is prohibited. Physicians shall not transmit prescriptions to a specific pharmacy, or recommend a pharmacy, in exchange for any type of consideration or benefit from that pharmacy."<sup>8</sup>

**Prescribing:** In the absence of an in-person physical examination and when telemedicine technologies are utilized, a physician must implement measures to uphold patient safety. Among these measures include the guarantee that the identity of the patient and provider are established, and that detailed documentation for the clinical evaluation and resulting prescription is both enforced and independently kept. "To further assure patient safety in the absence of physical examination, telemedicine technologies should limit medication formularies to ones that are deemed safe by [Name of Board]."<sup>9</sup>

"Prescribing medications, in-person or via telemedicine, is at the professional discretion of the physician."<sup>10</sup>

## **SECTION 5: PARITY OF PROFESSIONAL AND ETHICAL STANDARDS**

Physicians are encouraged to comply with national recognized health online service standards and code of ethics, and there should be parity of ethical and professional standards applied to all aspects of a physician's practice.

## Recommendations for State Boards to Consider

State medical boards may wish to consider the following items when formulating their own regulations and policies regarding the use of telemedicine by their licensees.

**Ensure policies and definitions are able to accommodate rapidly changing technologies.** When formulating policies and definitions for terms, state boards should be mindful about the rapid pace in which technology changes and develops. If a policy or definition is too narrow, it may not be able to address technological changes and would require the board or possibly the state legislature to make changes, which in the meantime would mean patients potentially lose the benefits of such developments.

**Provide clarity with definitions.** The Model Guidelines provided only definitions for two terms. However, other terms were used in the Model Guidelines that may need to be defined. For example, the term “online services” was used several times in the Model Guidelines without being defined. By having a clear definition of that term, providers would have a better understanding of services to which the accompanying regulations would apply.

The Model Guidelines specifically suggest excluding telephone, email, and fax from the definition of “telemedicine.” Currently, if used alone, many states do exclude telephone, email, and fax from the definition of “telemedicine” or “telehealth” because they are viewed as being insufficient as a means of providing care. However, such modalities have been used historically by clinicians to enhance communications with patients regarding their care. The language a state board creates should be carefully crafted to maintain the standard of care, yet not inadvertently limit the tools a physician currently utilizes in order to communicate with his or her patients.

**Parity to in-person services.** Telemedicine is a tool for the physician to use in the provision of services. It is not a new service, but a modality by which it is provided. The physician should be held to the same standards he or she normally would whether providing his/her services in person or via technology. Many issues can be solved by simply noting that a physician will be held to the same standard of care whether services are provided in person or via telemedicine. In many situations, therefore, no additional policies need to be created. For example, the suggestion in the Model Guidelines for an additional informed consent to include a “hold harmless clause” is superfluous, as equipment failure should be addressed in the same manner whether it occurs during an in-person visit (e.g., when a digital stethoscope malfunctions) or via telemedicine.

<sup>1</sup> Federation of State Medical Boards. *Model Policy for Appropriate Use of Telemedicine Technologies in the Practice of Medicine: Report of the State Medical Boards' Appropriate Regulation of Telemedicine (SMART) Workgroup*, April 2014; p. 2-3.

<sup>2</sup> Ibid, p. 3.

<sup>3</sup> Ibid, p. 3.

<sup>4</sup> Ibid, p. 4.

<sup>5</sup> Ibid, p. 4.

<sup>6</sup> Ibid, p. 6-7.

<sup>7</sup> Ibid, p. 7.

<sup>8</sup> Ibid, p. 7.

<sup>9</sup> Ibid, p. 7.

<sup>10</sup> Ibid, p. 7.