



## Vermont Board of Medical Practice Policy on Telemedicine

*“Is it acceptable for me to see patients by video conference?” “If I use technology to interact with patients, are there special requirements for such encounters?” “Is it acceptable to prescribe medication based on a remote patient encounter?”*

Those are just three examples of the many questions that have come up regarding the use of technology to facilitate practice through remote patient encounters. Prompted by such questions, by the ever-expanding use of technology to connect patients and physicians, and by the publication of a model policy on telemedicine by the Federation of State Medical Boards in 2014, the Vermont Board of Medical Practice published its [Policy on the Appropriate Use of Telemedicine Technologies in the Practice of Medicine](#) on May 6, 2015. The Board’s purpose was to provide guidance to physicians so that they can better understand how to maintain standards of professional conduct while engaging in practice models that are relatively new and evolving.

“Telemedicine” is defined in the policy as follows:

“Telemedicine” means 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 healthcare provider. Generally, telemedicine is not an audio-only, telephone conversation, e-mail/instant messaging conversation, or fax. It typically involves the application of secure videoconferencing or store and forward technology to provide or support healthcare delivery by replicating the interaction of a traditional encounter in person between a provider and a patient.



In broad terms, the message of the policy is that when a physician engages in the practice of medicine with a pa-

tient who is not being seen in person, all the expectations that adhere to a traditional, in-person encounter must be met. In reading the policy, it becomes apparent that even though the expectations for practice are equivalent to those of a traditional encounter, the challenges in meeting the standards of acceptable practice can be greater. The policy lays out several of those challenges that a physician needs to consider before delivering services using telemedicine technologies. The following is a synopsis highlighting some, but not all, of the guidance in the policy.

### **Identification and Location of the Patient**

Two immediate challenges that arise with telemedicine practice are determining with a reasonable level of assurance the patient’s identity and location. Identifying the patient is a fundamental obligation that ties to many issues, including billing and avoidance of being deceived by someone fraudulently seeking medications. Likewise, location of the patient is critical, as the physician is at risk of engaging in unlicensed practice if the patient is located in a jurisdiction where the physician does not hold a license. Obviously, there are greater challenges to determining the patient’s location when the encounter is not in-person.

### **Privacy**

Another challenging aspect of telemedicine is privacy. On top of the existing challenges to meet the legal requirements and patient expectations associated with privacy in traditional practice models, there are additional obligations associated with the electronic transmission of the physician-patient exchange.

### **Informed Consent**

The issue of informed consent is an inherent part of the delivery of healthcare services. Use of technology to deliver care remotely adds at least two extra factors to think about when considering this aspect of care.

First, to what extent must consent be obtained with regard to the remote delivery of services – what limitations or risks are associated with the remote encounter, as compared to an in-person encounter for the same issue? Second, the physician needs to consider informed consent regarding the privacy, security, and technological aspects of the service he or she provides.

## ***Continuity of Care, Emergency Referrals, and Medical Records***

These three topics are addressed individually in the policy, but are grouped here in recognition of the extent to which they are related.

To no less extent than with in-person delivery of medical services, it is expected that patients will be able to seek follow-up care, promptly obtain records, and have records shared with other care providers.

The physician providing remote care must have a plan for response to emergency situations that arise or are discovered during the telemedicine encounter.

### ***Online Medical Services***

Practice models designed to deliver care using primarily or exclusively online communication may present extra challenges (as opposed to practice models in which there is an office or clinic that receives the patient and facilitates the remote, telemedicine encounter). With an online practice in which all or most communication will flow through online tools, the physician will have to ensure provision is made to exchange information with patients regarding many matters related to practice, such as: fees, payment, appropriate use of the site, communication alternatives, access to update patient-provided information, complaints, and the identity of the site operator.

### ***Commercial Activity***

The policy alerts physicians to the hazards of advertising and promoting products on a telemedicine portal that is viewed by patients. The policy also mentions the potential for problems that may be associated with links on a physician's telemedicine site, noting that profit from the links or sales of products marketed through such links is an issue.

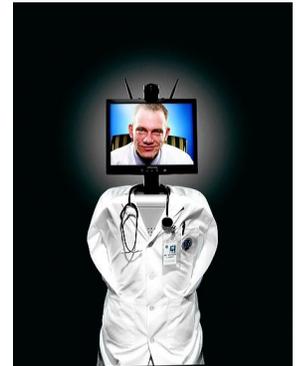
### ***Parity of Professional and Ethical Standards***

The final section of the policy has the heading "Parity of Professional and Ethical Standards." This brings us back to one of the opening points above. The expectations for a physician practicing telemedicine are really no different from those for a physician who practices in a traditional setting. However, physicians must realize that practice via telemedicine may present some additional or greater challenges than encountered in a traditional setting and address them when developing plans to deliver medical care using telemedicine technology. Regardless of whether the patient and physician are in the same room or miles apart and connected using technology, the physician bears the responsibility for ensuring that the care delivered meets the standard of care.

Now it's time to return to the questions that begin this article.

### ***Is it acceptable for me to see patients by video conference?***

Perhaps. The physician must ensure that the system to deliver care via telemedicine is established with an eye toward each of the issues touched upon in the policy and the medical services delivered must be of a nature such that it's possible to meet the standard of care through remote means. The Board cannot provide an all-encompassing list of what may and may not be done remotely. What is possible and acceptable is virtually certain to change as medical science and technology advance. Increasing knowledge, advances in technology, and more sophisticated sensors are likely to expand the range of encounters that can be delivered through telemedicine.



### ***If I use technology to interact with patients, are there special requirements for such encounters?***

When delivering health care through technological means there are challenges that must be met. The answer to this question depends entirely on the care being provided, the patient, and the extent to which the physician and patient have an existing relationship. The Board recommends consulting the policy as a framework for working through this question for any telemedicine situation.

### ***Is it acceptable to prescribe medication based on a remote patient encounter?***

It depends. As with any medical services delivered remotely, the physician is responsible for ensuring that all aspects of the care are in keeping with the guidance in the Board's policy and meet the standard of care. Physicians should also take note of a provision in Vermont law that pertains to medical practice using electronic communication, and that it speaks specifically to prescribing. The provision is subsection [33 of 26 V.S.A. § 1354](#), the law that defines unprofessional conduct.



The Board hopes that licensees will find this guidance and the policy helpful. We welcome any comments you may offer on the practice of telemedicine, our policy, or how we may improve the policy.