

# ATA's Standardized Telehealth Terminology and Policy Language for States on Medical Practice

## INTRODUCTION

The standardized telehealth terminology and policy language for states on medical practice was developed by the American Telemedicine Association (ATA) to serve as a toolkit for state policymakers throughout the country as they grapple with crafting telehealth laws that work in the best interest of their constituents. The suggested terminology and policies are rooted in ATA's vision: we promote a healthcare system where people have access to safe, effective and appropriate care when and where they need it, while enabling clinicians to do more good for more people. To address the challenges faced by states due to rising healthcare costs, an aging population, variation in quality and outcomes, and an inadequate number of clinicians, the ATA advocates using technology to reimagine care and supports policy that allows practitioners to use all available telehealth modalities – whether synchronous or asynchronous – to ensure all people receive care where and when they need it. The policy options delineated below, if adopted by state legislatures, will expand patient access to healthcare services, improve quality of care and reduce costs through the use of telehealth.

## DEFINITIONS

"Telehealth" means a mode of delivering healthcare services through the use of telecommunications technologies, including but not limited to asynchronous and synchronous technology, and remote patient monitoring technology, by a healthcare practitioner to a patient or a practitioner at a different physical location than the healthcare practitioner.

"Practitioner" shall mean a licensed, registered, certified, authorized, or exempted individual with the authority to deliver health and/or wellness services to consumers of this state.

"Asynchronous" means an exchange of information regarding a patient that does not occur in real time, including the secure collection and transmission of a patient's medical information, clinical data, clinical images, laboratory results, or a self-reported medical history.

"Synchronous" means an exchange of information regarding a patient occurring in real time.

"Remote patient monitoring" means the remote monitoring of a patient's vital signs, biometric data, or other objective or subjective data by a device which transmits such data electronically to a healthcare practitioner.

## **TELEHEALTH STANDARDS OF PRACTICE**

### **Standard of Care**

A practitioner utilizing telehealth shall be held to the same standards of professional practice as a practitioner practicing the same profession in an in-person setting, and nothing in this section is intended to create any new or different standards of care. However, it needs to be acknowledged that standards of care do vary based on site of care, time of day/night, location of the patient, and data available to the provider. It should be the responsibility of the provider to escalate to a higher level of care (or otherwise initiate appropriate recommendations) when medically indicated or necessary for patient safety.

### **Establishing Practitioner-Patient Relationship**

A valid practitioner-patient relationship may be established via synchronous or asynchronous telehealth without a prior in-person exam. As a condition of establishing a valid practitioner-patient relationship, the practitioner must:

- (1) Obtain the patient's consent for the use of telehealth as an acceptable mode of delivering healthcare services. Acknowledgement of such consent shall be documented in the patient's medical record; and
- (2) Verify the patient's identity and disclose the practitioner's identity and applicable credentials.

### **Telehealth Evaluation**

Prior to diagnosing, providing treatment or making recommendations, including issuing a prescription, the practitioner must obtain an applicable history and physical evaluation of the patient adequate to establish diagnosis and identify underlying conditions and/or contraindications to any treatment or prescription recommended/provided. The history and clinical evaluation may be conducted via synchronous or asynchronous telehealth communication, provided the relevant standard of care is met.

### **Prescribing Drugs via Telehealth**

When prescribing based on a telehealth encounter, a practitioner may prescribe the patient a legend drug, including a controlled substance, if the practitioner is authorized to prescribe such legend drug under applicable state and federal laws. To be valid, a prescription must be issued for a legitimate medical purpose by a practitioner acting in the usual course of the practitioner's professional practice. All prescribing must comply with applicable state and federal requirements.

### **Continuity of Care**

A practitioner utilizing telehealth must provide the patient a reasonable mechanism to contact the practitioner, or a covering practitioner, for follow-up care related to the patient's telehealth encounter. All telehealth interactions and transactions must comply with applicable state and federal privacy and security requirements.

### **Professional Licensing Board Authority**

The board or licensing entity governing any healthcare practitioner covered by this section may adopt and promulgate rules and regulations that are consistent with, but not more restrictive than, the telehealth practice standards set forth in this section. Rules adopted under this section should not establish a

separate standard of care for telehealth and must allow for the establishment of a provider-patient relationship through a synchronous or asynchronous telehealth interaction, provided the practitioner complies with the professional standard of care.

### **Exception for Provider-to-Provider Consulting Activities**

The standards for telehealth as set forth here shall not prohibit or apply to patient care during consultations among practitioners wherein the requesting practitioner has and maintains an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including the use of any prescribed medications.

*Adopted by the ATA Policy Council: October 2020*

*Please do not hesitate to contact the ATA to let us know how we can be helpful to efforts to advance common sense telehealth policies in the states. If you have any questions or would like to further discuss the telehealth industry's perspective on state legislation, please contact Kyle Zebley, the ATA's Policy Director, at [kzebley@americantelemed.org](mailto:kzebley@americantelemed.org).*