

TENNESSEE BOARD OF MEDICAL EXAMINERS

FAQ: Telemedicine

Note to the reader: This document should not be construed as containing legal advice and should not be relied upon as such. It is the supervisor's responsibility to educate him or herself on the obligations resulting from the creation of a supervisory relationship by reviewing all applicable [statutes](#) and [rules](#).

Q1: I am planning to provide medical care via telemedicine from my practice in Tennessee to patients in another state. Do I need a Tennessee medical license?

A: The practice of medicine occurs where the patient is located. If your patient is located in another state, you should be licensed in that state. If you see any patients that are located in Tennessee, you must also be licensed in Tennessee.

Q2: May a physician patient relationship be created through a telemedicine encounter?

A: Yes, a physician-patient relationship exists when a physician serves a patient's medical needs regardless of whether there has been an in-person encounter between the physician and patient.

Q3: I currently hold a Tennessee telemedicine license. Can I keep my telemedicine license?

A: Yes. You have the option to convert your telemedicine license to a full license without cost to you so long as your application for a full Tennessee medical license is received in the Board's administrative office by October 31, 2018. If you do not qualify for a full medical license, you can keep your telemedicine license so long as are in compliance with the following:

- 1) You must renew your license biennially;
- 2) You must maintain your current ABMS specialty board-certification;
- 3) Your practice will be limited to the provision of medical interpretation services in the area of your specialty board certification; and
- 4) You do not prescribe.

Q4: I am a physician who operates exclusively within a VA hospital. I have read the rules and Rule 0880-02-.16(4) says that I am "exempted from the provisions of these rules." What does that mean?

A: It means that your telemedicine practice is not subject to the requirements of the Board's telemedicine rule. The standard of care is not lower for these providers, rather the Board has recognized that either a federal authority has jurisdiction over the provider's practice or the practice is not telemedicine at all.

Q5: Can a physician prescribe controlled substances via telemedicine?

A: Not if the physician has a telemedicine license. A physician who elects to maintain his or her telemedicine license rather than converting to a full and unrestricted medical license may not prescribe. All other physicians with a full and unrestricted medical license may prescribe controlled substances in accordance with [Tenn. Comp. R. & Regs. 0880-02-.14\(6\)\(e\)\(3\) and 0880-02-.14\(7\)\(a\)](#). This rule requires that a physician, before prescribing or dispensing **any drug** to any individual **by any means**, must 1) perform an appropriate history and physical examination; 2) make a diagnosis upon the examinations and all diagnostic and laboratory tests consistent with good medical care; 3) formulate and discuss a therapeutic plan with the patient, as well as the basis for the plan, the risks and benefits of various treatment options; and 4) insure availability of the physician or coverage for the patient for appropriate follow-up care. Exceptions to this general rule are provided in Rule 0880-02-.14(7)(b).

TENN. CODE ANN. § 63-1-155 provides that a healthcare provider who delivers medical services via telemedicine should be held to the same standard of professional practice as a provider working in a traditional, in-person setting. This statute includes with two important caveats: 1) telemedicine encounters will be governed by the [Tennessee Chronic Pain Guidelines](#)—which explicitly prohibit the treatment of chronic pain through telemedicine—; and 2) the general rule of equivalent standards does not apply when medical services are being provided in a pain management clinic.

Federal regulation may limit a physician’s ability to prescribe controlled substances electronically without first performing at least one in-person assessment of the patient. Prescribers are encouraged to consult with personal counsel to determine whether their intended prescribing practices violate federal laws or regulation.

Q6: I am planning to treat a patient who is under age 18 via telemedicine. Must a facilitator be present for the entire encounter?

A: While it may be recommended, it is not required for the facilitator to be present for the entire encounter. A physician should act in accordance with the standard of care and applicable law when deciding whether a facilitator should be present for a patient encounter. However, the facilitator must: personally verify the identity of the patient and must identify themselves, their role and title to the patient.

Q7: May I supervise a PA/APRN who is planning to provide medical services via telemedicine?

A: Again, the practice of medicine occurs where the patient is located. The physician and the APRN or PA must be licensed in the state where the patient is located. The supervisory relationship must be in accordance with all applicable rules governing a physician’s supervision of a PA or APRN, including the requirement that the physician visit the remote site at least once every thirty (30) days. This is true even if the PA or APRN’s primary practice setting (i.e., the remote site) is out of the state of Tennessee, or within its borders, but geographically distant. A remote site visit may not occur via Skype or other videoconferencing technology.

Q8: How should I appropriately verify the patient’s identity?

A: A patient’s identity may be verified using government issued photo identification and/or a facilitator.