



## Treating Patients Located (Temporarily) Outside of Georgia

Treating patients while temporarily located out-of-state, for example, when at college or on vacation, may be accomplished through telemedicine, but at a minimum, providers need to address the following before doing so.

### I. Written policies and procedures

Telemedicine is defined by the American Telemedicine Association as “the use of medical information exchanged from one site to another via electronic communications to improve a patient’s clinical health status.” Before treating patients out of state via telemedicine, a healthcare provider should develop written policies and procedures which serve as a guide, and reference checklist, as their telemedicine practice develops and evolves. These policies and procedures should ensure that:

- Modes of communication used comply with HIPAA regulations and allow for verification of the individuals transmitting and receiving information.
- Measures are in place that safeguard the integrity of the care they provide to patients.
- Recommendations and treatment plans are feasible based on the resources available to patients.
- Patients are allowed the opportunity/outlet to provide feedback regarding what they expect during telemedicine encounters and the aspects of telemedicine in which they wish to participate.

In Georgia, the Composite Medical Board adopted Rule 360-3-.07 in 2014 to address the growing practice of telemedicine. In order for a physician to practice through electronic means in Georgia, the following minimum conditions must be met:

- (1) **A Georgia medical license.** This includes physicians as well as physician assistants and advanced practice registered nurses (collectively referred to as providers).
- (2) **The patient’s history.** The patient’s history must be available to the provider at the time of the consult via electronic or other such means.
- (3) **An in-person exam (with exceptions).** Prior to seeing a patient via telemedicine, the provider must have personally conducted an in-person examination of the patient. There are three (3) exceptions to this rule:
  - a) The provider is seeing the patient at the request of another Georgia licensed provider who has personally seen and examined the patient; or
  - b) The provider can examine the patient using technology and peripherals that are equal or superior to an in-person exam done within that provider’s standard of care; or
  - c) The provider is seeing the patient at the request of a Public Health Nurse, a Public School Nurse, the Department of Family and Children’s Services, law enforcement, community mental health center or through an established child advocacy center for the protection of a minor, and the provider can examine the patient using technology and peripherals that are equal or superior to an in-person exam done within that provider’s standard of care.
- (4) **Patient records.** The provider must maintain patient records which document the evaluation and treatment of the patient and the identity of the provider. A copy of the record must be provided to the referring provider, if applicable.
- (5) **Provider identification, credentials and emergency contact information.** The patient or his/her agent must be given each provider’s name, credentials and emergency contact information. For physicians, credentials include his or her area of practice and training. For PAs and NPs, credentials include the area of licensure and the name of the delegating or supervising physician.
- (6) **Clear follow-up instructions.** The patient or his or her agent must be provided clear, appropriate and accurate follow up instructions in the event any emergency care is needed in relation to the treatment. These should be documented in the patient’s records.
- (7) **Annual in person exam.** The provider must make “diligent efforts” to have the patient examined in-person by a Georgia physician, PA or NP at least annually.



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### II. Licensure

When you treat a patient out of state, you are deemed to be practicing medicine in that state, and therefore: (i) you can be sued in that state relative to the care provided there; and (ii) you need to be appropriately licensed to practice medicine in that state (see Southeastern States' Telemedicine Licensure Rules Overview below). Licensure rules vary by state, but a relatively quick option is utilization of the Interstate Medical Licensure Compact ("IMLC").

The IMLC "is an agreement among participating U.S. states and territories to work together to significantly streamline the licensing process for physicians who want to practice in multiple states. It offers a voluntary, expedited pathway to licensure for physicians who qualify. The mission of the Compact is to increase access to health care – particularly for patients in underserved or rural areas. The Compact makes it possible to extend the reach of physicians, improve access to medical specialists, and leverage the use of new medical technologies, such as telemedicine. While making it easier for physicians to obtain licenses to practice in multiple states, the Compact also strengthens public protection by enhancing the ability of states to share investigative and disciplinary information." Southeastern states which are currently participating in the IMLC include Alabama, Georgia, Mississippi, Louisiana, Texas, Oklahoma, Kentucky, West Virginia, and Tennessee. Other states may join, so please check <https://www.imlcc.org/participating-states/> for more information.

Eligible physicians can qualify to practice medicine in multiple states by completing just one application within the IMLC, receiving separate licenses from each state in which they intend to practice. These licenses are still issued by the individual states – just as they would be using the standard licensing process – but the licensure application is handled by the IMLC and the process is more streamlined. Only states and territories who have formally joined the Compact can participate in this streamlined licensure process. For more, see <https://www.imlcc.org/a-faster-pathway-to-physician-licensure/>.

**Southeastern States' Telemedicine Licensure Rules Overview** (contact the state licensing Board or Sterling Seacrest Pritchard for additional guidelines, limitations, and restrictions):

**Alabama** – Alabama medical license is not required if the services are provided on an irregular or infrequent basis. The word "irregular or infrequent" refers to telehealth medical services occurring less than 10 days in a calendar year or involving fewer than 10 patients in a calendar year.

**Florida** – Florida medical license is not required to provide health care services to a patient located in Florida, but the provider must first register with the applicable board/department.

**Louisiana** – Louisiana medical license is not required, but the provider must hold a telemedicine permit issued by the Board.

**Mississippi** – Mississippi medical license is required before practicing medicine across state lines via telemedicine unless (i) the evaluation, treatment and/or the medical opinion to be rendered by a physician outside of Mississippi is requested by a physician duly licensed to practice medicine in Mississippi, and (ii) the physician who has requested such evaluation, treatment and/or medical opinion has already established a doctor/patient relationship with the patient to be evaluated and/or treated.

**North Carolina** – North Carolina medical license is required for any provider using telemedicine to provide medical services to patients located in North Carolina except: (i) provider-to-provider consultations across state lines where a North Carolina licensee remains responsible for the care of the North Carolina patient, but an out-of-state provider consults "on an irregular basis" with the North Carolina licensee, and (ii) episodic follow-up care in which the patient is temporarily located in North Carolina but has an established relationship with an out-of-state provider, i.e., the patient is attending college or vacationing in North Carolina.

**South Carolina** – South Carolina medical license is required for any provider who provides care, renders a diagnosis, or otherwise engages in the practice of medicine via telemedicine.

**Tennessee** – Tennessee medical license is required for any provider practicing medicine, either in person or remotely using information transmitted electronically or through other means, on a patient within the state of Tennessee.



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### III. Prescriptions

If you call in a prescription to an out-of-state pharmacy, you may be practicing in that state and therefore need to adhere to the licensing requirements set forth above. The easier and safest option, therefore, is to ask the patient to contact their local Georgia pharmacy where you called in the prescription, and have the patient request that the pharmacist transfer the prescription to a pharmacy where they are currently located.

### IV. Other Considerations

In conjunction with the above-referenced recommendations, before treating your patients located out-of-state on a temporary basis, the provider will also need to consider the following:

- **Modes of communication.** Memorialize in your telemedicine procedure guide the mode of communication (e.g., real-time video conferencing, telephone calls, in-person visit, etc.) and the conditions/situations for each, and be sure you follow your guide (or document why you failed to do so). Also, document in the medical chart where the patient is located prior to the telemedicine encounter, and ensure you are properly licensed in accordance with the above state rules.
- **Quality of communications.** Determine what services you can/cannot provide via the modes of communication available. For example, check the video quality, the room lighting, the internet speed, etc., on both ends prior to utilizing a real-time video conference.
- **Parental consent.** Treatment via telemedicine should be handled like an in-person visit in terms of parental consent being obtained before treatment begins. See [Exhibit A](#) attached.
- **Coordination of care.** Discuss and memorialize your expectations of any on-site staff, and ensure that you are comfortable with their skill level. In other words, ask yourself “are they capable of (i) identifying medical issues and ensuring that you are made fully aware of same, and (ii) effectively carrying-out your treatment recommendations?”
- **Liability insurance.** Notify your professional liability and cyber liability carriers, or your insurance broker, before engaging in the practice of medicine across state lines to ensure they are aware of this exposure, and to confirm that there are no coverage limitations or restrictions.

*Nothing herein should be considered, construed, or interpreted as legal advice. Rather, this article was developed strictly as a risk management resource pursuant to your insurance broker agreement with Sterling Seacrest Pritchard. You should consult with an attorney concerning this matter and any advice, suggestions, and comments provided herein.*

## Exhibit A

### Telemedicine Session Patient Authorization and Consent Form

Telemedicine lets a doctor or other healthcare provider care for you, even when you cannot see him or her in person. The doctor uses the Internet or other technology to:

- Give you advice,
- Give you an exam, or
- Do a procedure through online communications.

Telemedicine can also be used to:

- Get prescription refills,
- Book an appointment, or
- Let your doctor talk with other providers about your health problem or treatment.

Telemedicine is more than a phone call, an email, a fax, or an online questionnaire. Sometimes you may need to come to a healthcare facility to use their equipment (TV screen, camera, or Internet). A provider may use need to use technology tools or medical devices to check on your health remotely. If you agree, part of your health record may be sent to the telemedicine provider before your session.

You and your healthcare team must decide if your health problem can be helped with telemedicine. The team and others involved in your care (e.g., medical home or hospital teams) will make a plan for your care using telemedicine. This will also include a plan in case you have an emergency during the telemedicine session.

If the patient is a minor child, the telemedicine provider will explain to the parent how a telemedicine exam is different from an in-person exam. He or she will also explain if a complete exam of the child is possible.

### Your Telemedicine Session

During your telemedicine session:

- The provider and the staff will introduce themselves.
- When starting a session, you may be asked to confirm the state you are in and the state where you live.
- The provider may talk to you about your health history, exams, x-rays, and other tests. Other providers may take part in this discussion.
- A visual and/or partial physical exam may take place. This may happen by video, audio, and/or or with other technology tools. A nurse or other healthcare staff may be in the room with you to help with the exam.
- Non-medical staff may be in the room to help with the technology.
- Video and/or photo records may be taken, and audio recordings may be made.
- A report of the session will be placed in your medical record. You can get a copy from your provider.

All laws about the privacy of your health information and medical records apply to telemedicine. These laws also apply to the video, photo, and audio files that are made and stored.

## Risks and Common Problems

Many patients like telemedicine because they do not have to spend time and money on travel to see a certain healthcare provider in person. Also, they can see a provider who they might not be able to see otherwise.

Technology can make getting health care easy, **but there can also be problems:**

- If there is an equipment or Internet problem, your diagnosis or treatment could be delayed.
- Records or images that are taken and sent may be poor quality. This can delay or cause problems with your diagnosis or treatment.
- The records sent for review before the session may not be complete. If this happens, then it may be hard for the telemedicine provider to use his or her best judgment about your health problem. For instance, you could react to a drug or have an allergic response if the provider does not have all of the facts about your health.
- There could be problems with Internet security and privacy. For instance, hackers may access or view your health information. If this happens, then your medical records may not stay private.
- If there is a technology problem, the information from your session may be lost. This would be outside the control of your doctor and the telemedicine provider.
- Without a hands-on exam, it may be hard to diagnosis your problem.

## More Facts

A main goal of telemedicine is to make sure that you get good, personal health care, even though you are not seeing a provider in person.

Some states may require you to have a face to face visit first and a yearly visit with your doctor before telemedicine treatment can happen.

Telemedicine providers must follow the same rules for prescribing drugs just as they would for an office visit. Before your session, you will learn about which drugs telemedicine providers can and cannot prescribe.

Having a telemedicine session is your choice. Even if you have agreed to the session, you can stop your medical records from being sent – if this has not happened yet. You can stop the session at any time. You can limit the physical exam.

You will be told about all staff who will take part in the session. You can ask that any of these people leave the room to stop them from seeing or hearing the session. It is up to you to make sure the setting for your session is private. It should only include people who you are willing to share health information with. Your telemedicine provider can ask that people with you leave the room to make sure your session is private.

Your session may end before all problems are known or treated. It is up to you to get more care if your health problem does not go away.

You will be told how long it might take to respond to your emails, phone calls, or other types of messages.

Before your session, you may want to ask how much of the cost will be covered by your insurance and how much you may owe.

## Patient Acknowledgement

This form gives you facts about and risks of telemedicine sessions. By signing this form, you agree that you have read, understand, and agree with these terms.

I also confirm by my signature below that:

- I have been told the name and credentials of my telemedicine provider,
- I have been able to ask questions about telemedicine sessions,
- All of my questions have been answered,
- I understand no guarantees have been made about success or outcome, and
- I agree to take part in a telemedicine session.

\_\_\_\_\_  
Signature of Patient, Parent/Guardian, or Responsible Party

\_\_\_\_\_  
Date and Time

\_\_\_\_\_  
Relationship to Patient (if Responsible Party is not Patient or if Patient is a Minor)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date and Time