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# CRICO Coverage: Telemedicine

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This document provides answers to frequently asked questions about CRICO's medical professional liability (MPL) insurance coverage as it relates to medical malpractice claims involving services provided to patients through telemedicine<sup>1</sup>.

It is important to note that the CRICO MPL insurance policies do not require CRICO to provide insureds with a defense to complaints, actions or proceedings that may be brought by or before state or federal licensure or regulatory boards or agencies, such as medical boards of registration or the Drug Enforcement Agency, or such as proceedings involving allegations that a provider has engaged in the unlicensed practice of medicine or violated prescribing laws. Furthermore, the CRICO MPL insurance policies do not apply to criminal proceedings. Clinicians should consult with their institution's general counsel and clinical leadership to understand the requirements and standards of their employer related to the practice of telemedicine, including local licensure.

## ***Does CRICO provide coverage for telemedicine services?***

Yes. Medical malpractice claims arising out of telemedicine services are covered by CRICO's MPL insurance policies. No notification or other action by organizations or clinicians is required for such coverage to extend. As with any claim, coverage of a telemedicine claim is subject to any applicable exclusions, conditions, or other terms in the CRICO MPL insurance policies.

## ***Does the coverage apply to entities and individuals?***

If your organization or practice group has entity-level CRICO MPL insurance coverage, the entity, its CRICO-insured physicians and certified nurse midwives, and its CRICO-insured non-physician clinicians employed by the entity are covered for medical malpractice claims arising out of telemedicine activities. As with any claim, coverage of a telemedicine claim is subject to any applicable exclusions, conditions, or other terms in the CRICO MPL insurance policies.

## ***Does the coverage extend to telemedicine services provided across state lines?***

Yes. CRICO MPL coverage responds to claims of medical malpractice, filed domestically and internationally<sup>2</sup>, for in person or virtual care. Clinicians should comply with jurisdictional licensure requirements as our current MPL policies have exclusions for willful violations of statutes, including state licensure laws. Over the past two years, CRICO's MPL policies have been enhanced to provide coverage in certain circumstances when telemedicine services are provided without proper licensure, as follows:

1. **2020 COVID Riders** - CRICO modified its MPL insurance policies effective March 10, 2020, in order to better accommodate the needs of its insureds with respect to the provision of telemedicine services across state lines. This policy change modifies the policy exclusion related to violation, or potential violation, of state licensure laws when telemedicine services are provided in response to, and/or in connection with, the crisis caused by and/or resulting from the coronavirus.
2. **New 2021 Telemedicine Riders** – CRICO further modified its MPL insurance policies effective June 15, 2021. This additional enhancement modifies the domestic CRICO MPL insurance policies<sup>3</sup> so that coverage will be provided for malpractice claims notwithstanding a

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<sup>1</sup> This summary is provided for informational purposes only and does not replace or alter the terms and conditions of the CRICO MPL insurance policies. Please refer to the policies for the specific language that governs coverage for telemedicine claims.

<sup>2</sup> Coverage does not apply in any circumstance for activities performed in countries or territories excluded by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury.

<sup>3</sup> Whether CRICO's domestic or international MPL insurance policy applies depends on where a lawsuit is brought, not where the care is provided or where the patient resides.

violation, or potential violation, of licensure, prescribing, or practice laws when telemedicine services are provided to an established patient by an insured who is not locally licensed. Coverage afforded under these riders applies to CRICO's domestic MPL policies and is limited to \$3M per claim and \$10M in the annual aggregate.

***Who qualifies as an “established patient” under the new 2021 riders?***

An established patient is an individual who had an in-person visit (or telemedicine visit valid under state law) in the last three years with:

- An insured (“*Insured*”),
- Another insured clinician at the Insured's practice group or,
- Any CRICO-insured clinician (even if affiliated with a different member institution than the Insured's institution) referred by the Insured or another insured clinician at the Insured's practice group for an existing diagnosis, complaint or condition.

***Coverage will apply in all the following examples under the new 2021 riders:***

1. A New Hampshire resident who has traveled to Massachusetts for treatment by an insured for anxiety for many years has asked that his/her/their follow up visit required for prescription refill be conducted virtually with the insured who is licensed only in Massachusetts.
2. A Maine resident who came to New Hampshire last month for pre-natal care with a clinician in an insured's practice group; then, while back in Maine, has a follow up telemedicine visit regarding the pre-natal care with such insured, who is licensed only in New Hampshire.
3. A Massachusetts resident who was treated two years ago in-person in Massachusetts by an MGH insured for diabetes; then, while on vacation in Colorado, pursuant to a referral from that MGH insured, has a telemedicine visit related to his/her/their diabetes with an Atrius insured who is licensed only in Massachusetts.

***Does CRICO coverage extend to virtual video visits used as part of research studies?***

Yes. CRICO's MPL insurance policies cover medical professional services which include clinical research. As noted above, coverage of a telemedicine claim is subject to any applicable exclusions, conditions, or other terms in the CRICO MPL insurance policies.

***Where can I find more information about telemedicine?***

For more detailed information on the practice of virtual care and best practices, see the guide—[\*Patient Safety Guidance for the Virtual Visit: Managing Risk in a New Care Setting\*](#) produced by **CRICO's AMC PSO**.

If you need further assistance, please contact Melissa Kemp, Vice President of CRICO Underwriting at [mkemp@rmf.harvard.edu](mailto:mkemp@rmf.harvard.edu) or 617-450-6835.