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What is the definition of “telemedicine” or “telehealth”?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), amends the Indiana Medicaid statute definition of “telemedicine services” to match the definition set forth in Indiana Code Section 25-1-9.5-6.

[IND. CODE § 12-15-5-11\(b\)](#), as amended by [House Enrolled Act No. 1337](#).

Among the statutory provisions related to Indiana’s Medicaid program, the phrase “telehealth services” is defined as “the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across a distance.”

[IND. CODE § 12-15-5-11\(a\)](#).

In the insurance coverage context, the phrase “telemedicine services” is defined as “health care services delivered by use of interactive audio, video, or other electronic media, including the following: (1) [m]edical exams and consultations [and] (2) [b]ehavioral health, including substance abuse evaluations and treatment.”

[IND. CODE § 27-8-34-5\(a\)](#).

For purposes of health care consent, “telemedicine” means “a specific method of delivery of services, including medical exams and consultations and behavioral health evaluations and treatment, including those for substance abuse, using videoconferencing equipment to allow a provider to render an examination or other service to a patient at a distant location.”

[IND. CODE § 16-18-2-348.5](#).

PSYCHIATRISTS

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

A license issued by the Medical Licensing Board of Indiana is generally required to practice as a psychiatrist in Indiana.

[IND. CODE § 25-22.5-8-1](#).



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Telemedicine providers are required to obtain a Telemedicine Provider Certification with the Indiana Professional Licensing Agency before the provider may establish a provider-patient relationship or issue a prescription for an individual located in Indiana. A psychiatrist is considered a “provider” for the purposes of the Telemedicine Provider Certification requirement because a psychiatrist is a physician licensed under Indiana law. A provider that practices predominantly in Indiana is not required to obtain a Telemedicine Provider Certification. A provider’s employers or contractors are required to obtain a separate Telemedicine Provider Certification.

[Indiana Initial Telemedicine Provider Certification.](#)

[Indiana Telemedicine Provider’s Employer or Contractor Certification.](#)

[IND. CODE § 25-22.5-1-1.](#)

[IND. CODE § 25-1-9.5-8\(a\)\(2\).](#)

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), amends the out-of-state telemedicine provider requirements to state the following:

- (a) “A prescriber who is physically located outside Indiana is engaged in the provision of health care services in Indiana when the prescriber:
 - (1) establishes a provider-patient relationship under this chapter with; or
 - (2) determines whether to issue a prescription under this chapter for;

an individual located in Indiana.

- (b) A prescriber described in subsection (a) may not establish a provider-patient relationship under this chapter with or issue a prescription under this chapter for an individual who is located in Indiana unless the prescriber and the prescriber’s employer or the prescriber’s contractor, for purposes of providing health care services under this chapter, have certified in writing to the Indiana professional licensing agency, in a manner specified by the Indiana professional licensing agency, that the prescriber and the prescriber’s employer or prescriber’s contractor agree to be subject to:
 - (1) the jurisdiction of the courts of law of Indiana; and
 - (2) Indiana substantive and procedural laws;

concerning any claim asserted against the prescriber, the prescriber’s employer, or the prescriber’s contractor arising from the provision of health care services under this chapter to an individual who is located in Indiana at the time the health care services



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were provided. The filing of the certification under this subsection shall constitute a voluntary waiver by the prescriber, the prescriber's employer, or the prescriber's contractor of any respective right to avail themselves of the jurisdiction or laws other than those specified in this subsection concerning the claim. However, a prescriber that practices predominately in Indiana is not required to file the certification required by this subsection.

- (c) A prescriber shall renew the certification required under subsection (b) at the time the prescriber renews the prescriber's license.
- (d) A prescriber's employer or a prescriber's contractor is required to file the certification required by this section only at the time of initial certification.”

[IND. CODE § 25-1-9.5-9](#), as amended by [House Enrolled Act No. 1337](#).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), adds the following requirements for establishing a provider-patient relationship via telemedicine:

- (a) “A prescriber who provides health care services through telemedicine shall be held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting.
- (b) A prescriber may not use telemedicine, including issuing a prescription, for an individual who is located in Indiana unless a provider-patient relationship between the prescriber and the individual has been established. A prescriber who uses telemedicine shall, if such action would otherwise be required in the provision of the same health care services in a manner other than telemedicine, ensure that a proper provider-patient relationship is established. The provider-patient relationship by a prescriber who uses telemedicine must at a minimum include the following:
 - (1) Obtain the patient's name and contact information and:
 - (A) a verbal statement or other data from the patient identifying the patient's location; and



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- (B) to the extent reasonably possible, the identity of the requesting patient.
- (2) Disclose the prescriber's name and disclose whether the prescriber is a physician, physician assistant, advanced practice nurse, optometrist, or podiatrist.
 - (3) Obtain informed consent from the patient.
 - (4) Obtain the patient's medical history and other information necessary to establish a diagnosis
 - (5) Discuss with the patient the:
 - (A) diagnosis;
 - (B) evidence for the diagnosis; and
 - (C) risks and benefits of various treatment options, including when it is advisable to seek in-person care.
 - (6) Create and maintain a medical record for the patient and, subject to the consent of the patient, notify the patient's primary care provider of any prescriptions the prescriber has issued for the patient if the primary care provider's contact information is provided by the patient. The requirements in this subdivision do not apply when any of the following are met:
 - (A) The prescriber is using an electronic health record system that the patient's primary care provider is authorized to access.
 - (B) The prescriber has established an ongoing provider-patient relationship with the patient by providing care to the patient at least two (2) consecutive times through the use of telemedicine services. If the conditions of this clause are met, the prescriber shall maintain a medical record for the patient and shall notify the patient's primary care provider of any issued prescriptions.
 - (7) Issue proper instructions for appropriate follow-up care.
 - (8) Provide a telemedicine visit summary to the patient, including information that indicates any prescription that is being prescribed."

[IND. CODE § 25-1-9.5-7](#), as amended by [House Enrolled Act No. 1337](#).



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Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), states the following:

(a) “A prescriber may issue a prescription to a patient who is receiving services through the use of telemedicine if the patient has not been examined previously by the prescriber in person if the following conditions are met: (1) The prescriber has satisfied the applicable standard of care in the treatment of the patient. (2) The issuance of the prescription by the prescriber is within the prescriber’s scope of practice and certification. (3) The prescription: (A) meets the requirements of subsection (b) [related to controlled substances]; and (B) is not an opioid. However, an opioid may be prescribed if the opioid is a partial agonist that is used to treat or manage opioid dependence. (4) The prescription is not for an abortion inducing drug [as defined]. (5) The prescription is not for an ophthalmic device [as described].

(b) Except as provided in subsection (a), a prescriber may issue a prescription for a controlled substance [as defined] to a patient who is receiving services through the use of telemedicine, even if the patient has not been examined previously by the prescriber in person, if the following conditions are met: (1) The prescriber maintains a valid controlled substance registration [as described]. (2) The prescriber meets the conditions set forth in 21 U.S.C. 829 et seq. (3) The patient has been examined in person by a licensed Indiana health care provider and the licensed health care provider has established a treatment plan to assist the prescriber in the diagnosis of the patient. (4) The prescriber has reviewed and approved the treatment plan described in subdivision (3) and is prescribing for the patient pursuant to the treatment plan. (5) The prescriber complies with the requirements of the INSPECT program [as defined].”

[IND. CODE § 25-1-9.5-8\(a\)-\(b\)](#), as amended by [House Enrolled Act No. 1337](#).

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

The term “telemedicine” does not include “the following:

- (1) Audio-only communication.
- (2) A telephone call.



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- (3) Electronic mail.
- (4) An instant messaging conversation.
- (5) Facsimile.
- (6) Internet questionnaire.
- (7) Telephone consultation.
- (8) Internet consultation.”

[IND. CODE § 25-1-9.5-6\(b\).](#)

ADVANCED PRACTICE REGISTERED NURSES (APRNs)

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

Telemedicine providers are required to obtain a Telemedicine Provider Certification with the Indiana Professional Licensing Agency before the provider may establish a provider-patient relationship or issue a prescription for an individual located in Indiana. APRNs are considered “providers” for the purposes of the Telemedicine Provider Certification requirement as they are licensed and granted authority to prescribe under Indiana law. A provider that practices predominantly in Indiana is not required to obtain a Telemedicine Provider Certification. A provider’s employers or contractors are required to obtain a separate Telemedicine Provider Certification.

[Indiana Initial Telemedicine Provider Certification.](#)

[Indiana Telemedicine Provider’s Employer or Contractor Certification.](#)

[IND. CODE § 25-22.5-1-1.](#)

[IND. CODE § 25-1-9.5-8.](#)

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), adds the following requirements for establishing a provider-patient relationship via telemedicine:

- (c) “A prescriber who provides health care services through telemedicine shall be held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting.
- (d) A prescriber may not use telemedicine, including issuing a prescription, for an individual who is located in Indiana unless a provider-patient relationship



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between the prescriber and the individual has been established. A prescriber who uses telemedicine shall, if such action would otherwise be required in the provision of the same health care services in a manner other than telemedicine, ensure that a proper provider-patient relationship is established. The provider-patient relationship by a prescriber who uses telemedicine must at a minimum include the following:

- (9) Obtain the patient's name and contact information and:
 - (C) a verbal statement or other data from the patient identifying the patient's location; and
 - (D) to the extent reasonably possible, the identity of the requesting patient.
- (10) Disclose the prescriber's name and disclose whether the prescriber is a physician, physician assistant, advanced practice nurse, optometrist, or podiatrist.
- (11) Obtain informed consent from the patient.
- (12) Obtain the patient's medical history and other information necessary to establish a diagnosis
- (13) Discuss with the patient the:
 - (D) diagnosis;
 - (E) evidence for the diagnosis; and
 - (F) risks and benefits of various treatment options, including when it is advisable to seek in-person care.
- (14) Create and maintain a medical record for the patient and, subject to the consent of the patient, notify the patient's primary care provider of any prescriptions the prescriber has issued for the patient if the primary care provider's contact information is provided by the patient. The requirements in this subdivision do not apply when any of the following are met:
 - (C) The prescriber is using an electronic health record system that the patient's primary care provider is authorized to access.



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- (D) The prescriber has established an ongoing provider-patient relationship with the patient by providing care to the patient at least two (2) consecutive times through the use of telemedicine services. If the conditions of this clause are met, the prescriber shall maintain a medical record for the patient and shall notify the patient's primary care provider of any issued prescriptions.
- (15) Issue proper instructions for appropriate follow-up care.
- (16) Provide a telemedicine visit summary to the patient, including information that indicates any prescription that is being prescribed."

[IND. CODE § 25-1-9.5-7](#), as amended by [House Enrolled Act No. 1337](#).

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

The term "telemedicine" does not include "the following:

- (1) Audio-only communication.
- (2) A telephone call.
- (3) Electronic mail.
- (4) An instant messaging conversation.
- (5) Facsimile.
- (6) Internet questionnaire.
- (7) Telephone consultation.
- (8) Internet consultation."

[IND. CODE § 25-1-9.5-6\(b\)](#).

PRIVACY/CONFIDENTIALITY

What are the specific privacy/confidentiality requirements involving mental health records?

A record for each patient receiving mental health services shall be maintained by the provider. The mental health record must contain the information that the division of mental health and addiction, the division of disability and rehabilitative services, or the state department requires by rule. The provider is:



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- (1) the owner of the mental health record;
- (2) responsible for the record's safekeeping and
- (3) entitled to retain possession of the record.

The information contained in the mental health record belongs to the patient involved as well as to the provider. The provider shall maintain the original mental health record or a microfilm of the mental health record for at least seven (7) years.

[IND. CODE § 16-39-2-2.](#)

A patient's mental health records are confidential and can generally be disclosed only with the consent of the patient.

[IND. CODE § 16-39-2-3.](#)

Are there privacy/confidentiality requirements specifically related to telemental/telebehavioral/telepsychiatric health services?

Telemedicine providers are also required to create and maintain a medical record for a patient.

[IND. CODE § 25-1-9.5-7.](#)

FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

Establishing a provider-patient relationship (for physicians and APRNs) includes issuing proper instructions for appropriate follow-up care.

[IND. CODE § 25-1-9.5-7.](#)



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COVERAGE & REIMBURSEMENT

Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), adds the following reimbursement language:

Medicaid reimburses licensed home health agencies for telemedicine services. Medicaid also reimburses federally qualified health centers, rural health clinics, certified community mental health centers, critical access hospitals, and other eligible providers for “**medically necessary**” telemedicine services. There are no distance restrictions.

[IND. CODE § 12-15-5-11](#), as amended by [House Enrolled Act No. 1337](#).

CONTROLLED SUBSTANCES

What are the requirements/laws governing the prescribing of “controlled” substances?”

Indiana House Enrolled Act No. 1337, effective on July 1, 2017, but not yet codified (as of August 2017), adds the following language related to controlled substance prescriptions issued through telemedicine:

A prescriber may issue a controlled substance prescription to a patient who is receiving services through the use of telemedicine, even if the patient has not been examined previously by the prescriber in person, when certain conditions are met, including (but not limited to) the following: (i) the prescriber maintains a valid controlled substance registration under federal and state law; (ii) the patient has been examined in person by a licensed Indiana health care provider and the licensed health care provider has established a treatment plan; (iii) the prescriber has reviewed and approved the treatment plan; and (iv) the prescriber complies with state inspection, prescription, and dispensing requirements.

[IND. CODE § 25-1-9.5-7](#), as amended by [House Enrolled Act No. 1337](#).