



healthpolicybrief

Looking ahead: Understanding telehealth in Ohio

EXECUTIVE SUMMARY

NOTE: This document provides a brief overview of telehealth issues in Ohio. For more information, including data sources, please download the full **Looking ahead: Understanding telehealth in Ohio** brief at <http://bit.ly/YhKLzu>.

What is telehealth? Does it differ from telemedicine?

While both telehealth and telemedicine are recognized to be subsets of the broader electronic health system ("e-health"), no consistent definition for telehealth or telemedicine has been adopted in literature or practice. Some organizations distinguish between the two, while others use the terms interchangeably.

Regardless of the precise definition, telehealth and telemedicine, in general, are intended to

increase access to care and improve health outcomes by overcoming geographic barriers to care through the use of information and communications technology (ICT).

For this paper, we use the term "telehealth" as it is generally viewed as being broader in scope than telemedicine. However, the term "telemedicine" will be referenced when necessitated by law or regulation.

How is telehealth regulated in Ohio?

Ohio defines the "practice of medicine" to include the provision of medical services through the use of any communication, including oral, written or electronic communication. In general, regulation specific to telehealth at the state level is limited. However, Ohio has issued some laws and policies around telehealth practice and use (See table below for more information on Ohio telehealth policies).

Ohio telehealth policies

Issue	Policy	Source
Medication Prescribing	Providers may prescribe non-controlled substances to remotely located patients if they obtain a history and perform a physical examination using diagnostic medical equipment capable of transmitting patient information in real-time; providers are required to personally physically examine a patient when prescribing controlled substances.	State of Ohio Medical Board Interpretive Guideline on Rule 4731-11-09, Adopted September 13, 2012
Physician Licensure	Out-of-state physicians providing telehealth services through the use of any communication, including oral, written, or electronic communication, must obtain either a (1) full certificate to practice or (2) a telemedicine certificate. If the holder of a telemedicine certificate wishes to physically practice in the state, they either need to obtain a full certificate to practice or a special activity license. In-state physicians only need a current Ohio medical license.	ORC 4731.296; ORC 4731.294
Patient informed consent	Practitioners providing counseling, social work or marriage and family therapy via electronic service delivery must obtain patient informed consent by providing the patient with information defining electronic service delivery and the potential risks and ethical considerations associated with it.	OAC 4757-5-13
Public Payer Reimbursement	Ohio Medicaid provides limited telemedicine reimbursement to certified community mental health centers for certain services rendered via interactive videoconferencing: <ul style="list-style-type: none"> Behavioral health counseling and therapy services Mental health assessment service Pharmacological management Community psychiatric supportive treatment Medicaid also reimburses certified Ohio Department of Alcohol and Drug Addition Services (ODADAS) providers for certain case management, group counseling and individual counseling services rendered through real-time audiovisual communications.	OAC 5101:3-27-02(F) (5); OAC 5122-29-03(F); OAC 5122-29-04(C); OAC 5122-29-05(C); OAC 5122-29-17(J); OAC 4737-17-01(I); OAC 4732-17-01; OAC 3793:2-1-11
Private Payer Reimbursement	Ohio does not require private payer reimbursement for telehealth services.	

Note: This figure provides an overview of policies and regulations around telehealth for informational purposes only as of March 30, 2013. It is not intended to be a comprehensive statement of telehealth law or relied upon as authoritative. Independent verification of the information is recommended as laws and policies may change.

What are the legal and regulatory challenges facing telehealth stakeholders in Ohio and the nation?

While interest and use of telehealth continues to grow, the legal and regulatory framework around telehealth has not evolved at the same rate. Medical practice laws are generally not fashioned to “transcend state lines” or address the issues that may arise with the remote practice of health care by a remote provider or to a remote patient. As a result, telehealth faces a set of unique legal barriers that have constrained the implementation of telehealth both in Ohio and across the United States (see table below).

Telehealth legal and regulatory challenges at a glance

Issue	Current Ohio policy source	Description
Public payer reimbursement	<ul style="list-style-type: none"> Centers for Medicare and Medicaid services (CMS) Ohio Medicaid Ohio Medicaid managed care plans 	<p>National: Medicare has limited reimbursement for telehealth services.</p> <p>Ohio:</p> <ul style="list-style-type: none"> Medicaid provides limited reimbursement to certified community mental health centers for certain services rendered via interactive videoconferencing. Medicaid also reimburses certified ODADAS providers for case management, group counseling and individual counseling services rendered through real-time audiovisual communications. Medicaid managed care plans have implemented some telehealth pilot projects but have not committed to wider scale telehealth reimbursement.
Private payer reimbursement	Private sector	<p>National: Private payers nationally provide limited telehealth reimbursement.</p> <p>Ohio: Private payers have implemented some telehealth pilot projects but have not committed to wider scale telehealth reimbursement.</p>
Provider licensure	Ohio licensing boards	<p>National: Providers are required to be licensed in the state they are working and may also be required to be licensed in the state in which they provide services. Variation in state licensure laws can increase the compliance burden on providers wanting to participate in interstate telehealth, increase provider risk for medical malpractice claims and result in additional provider practice costs.</p> <p>Ohio: Out-of-state physicians providing telehealth services through the use of any communication, including oral, written, or electronic communication, must obtain either a (1) full certificate to practice or (2) a telemedicine certificate. If the holder of a telemedicine certificate wishes to physically practice in the state, they either need to obtain a full certificate to practice or a special activity license. In-state physicians only need a current Ohio medical license.</p>
Scope of practice	<ul style="list-style-type: none"> Ohio licensing boards Ohio medical practice acts 	<p>National: Scope of practice refers to the duties and functions a health care practitioner can lawfully perform in a state. Variation in state laws and lack of guidance from states on the application of telehealth can lead practitioners to perform outside of their scope of practice or prevent practitioners from fully performing all the lawful functions and duties outlined in their scope of practice.</p> <p>Ohio: Has a series of medical practice laws that outline the roles and responsibilities of health care practitioners in the state. Guidance specific to the application of telehealth is minimal.</p>
Patient informed consent	<ul style="list-style-type: none"> Ohio laws Private and public organizational policies 	<p>National: Some states require telehealth practitioners to obtain additional informed consent from their patients prior to providing telehealth services.</p> <p>Ohio: Practitioners providing counseling, social work or marriage and family therapy via electronic service delivery must obtain patient informed consent by providing the patient with information defining electronic service delivery and the potential risks and ethical considerations associated with it.</p>
Credentialing and privileging	<ul style="list-style-type: none"> CMS Joint commission (JC) Other accrediting bodies 	Telehealth providers must have a clear credentialing and privileging process that is in compliance with standards set out by CMS, JC and other applicable accrediting bodies. Navigating the standards and ensuring compliance can be burdensome for providers.
Patient privacy and security	Health Insurance Portability and Accountability Act (HIPAA)	Telehealth is more susceptible to patient privacy and security breaches due to the increase in individuals that may have access to patient records and the increased transmission of patient information over communication lines.

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For more information regarding the Health Policy Institute of Ohio’s telehealth work, please contact raly@healthpolicyohio.org.