

Effective 5/12/2020

Superseded 5/5/2021

26-60-103 Scope of telehealth practice.

- (1) A provider offering telehealth services shall:
 - (a) at all times:
 - (i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and
 - (ii) be held to the same standards of practice as those applicable in traditional health care settings;
 - (b) if the provider does not already have a provider-patient relationship with the patient, establish a provider-patient relationship during the patient encounter in a manner consistent with the standards of practice, determined by the Division of Professional Licensing in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including providing the provider's licensure and credentials to the patient;
 - (c) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:
 - (i) obtaining from the patient or another provider the patient's relevant clinical history; and
 - (ii) documenting the patient's relevant clinical history and current symptoms;
 - (d) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;
 - (e) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated;
 - (f) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records; and
 - (g) if the patient has a designated health care provider who is not the telemedicine provider:
 - (i) consult with the patient regarding whether to provide the patient's designated health care provider a medical record or other report containing an explanation of the treatment provided to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the patient's condition;
 - (ii) collect from the patient the contact information of the patient's designated health care provider; and
 - (iii) within two weeks after the day on which the telemedicine provider provides services to the patient, and to the extent allowed under HIPAA as that term is defined in Section 26-18-17, provide the medical record or report to the patient's designated health care provider, unless the patient indicates that the patient does not want the telemedicine provider to send the medical record or report to the patient's designated health care provider.
- (2) Subsection (1)(g) does not apply to prescriptions for eyeglasses or contacts.
- (3) Except as specifically provided in Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act, and unless a provider has established a provider-patient relationship with a patient, a provider offering telemedicine services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following:
 - (a) an online questionnaire;
 - (b) an email message; or
 - (c) a patient-generated medical history.
- (4) A provider may not offer telehealth services if:

- (a) the provider is not in compliance with applicable laws, rules, and regulations regarding the provider's licensed practice; or
- (b) the provider's license under Title 58, Occupations and Professions, is not active and in good standing.