

## Blog Post

# Breaking Developments for Telehealth and Teleprescribing in Georgia

March 23, 2020

Unsurprisingly, COVID-19 has created a great degree of liberalization in the telehealth requirements previously in place. What has not changed is the fact that telehealth services are governed by a number of different laws and regulations, all of which are constantly changing – now more than ever. In addition to the multiple changes at the federal level, what follows is the first in a series of blog posts that outline certain state’s changes in their telemedicine rules in response to the pandemic.

For physicians currently providing or interested in providing telehealth and teleprescribing to Georgia patients, the past few days have seen new developments impacting telehealth and teleprescribing requirements tracking some of the federal developments.

***Medical Board Emergency Practice Permits for Telemedicine.*** On March 5, 2020, the Georgia Composite Medical Board (Board) announced that it would issue emergency practice permits to previously unlicensed physicians, physician assistants, advance practice registered nurses, and respiratory care professionals who wish to practice medicine during the COVID-19 emergency response. Those permits can be accessed [here](#) and will be valid from the Board’s approval of the application until the earlier of 90 days or when the governor lifts the statement of emergency.

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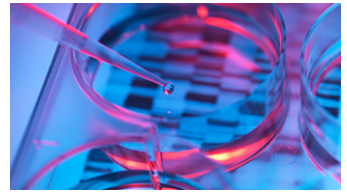
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## **Medical Board Requirements for Telemedicine**

**Services.** For now, the requirements for these applicants and currently-licensed physicians and other Board-licensed providers providing telehealth services remain as outlined in the Georgia Rules & Regulations 360-3-.07:



1. All treatment and/or consultations must be done by ***Georgia licensed practitioners***.
2. A ***history*** of the patient must be available to the Georgia licensed physician, PA, or APRN (the GA Provider) who is providing the treatment and/or consultation.
3. The GA Provider must either: a) have ***personally seen and examined*** the patient and provide ongoing or intermittent care by electronic or other means (e.g., primary physician of patient); or b) is providing medical care by electronic or other means ***at the request of the GA Provider who has personally seen or examined*** the patient (e.g., fellow GA Provider); or c) providing medical care by at the request of a Public Health Nurse, Public School Nurse, DFCS, law enforcement, community medical health center and the GA Provider is able to examine the patient using technology and peripherals equal or superior to an examination done personally by a provider within that provider's standard of care; or d) is able to ***examine*** the patient using technology and peripherals that are ***equal or superior to an examination done personally*** by a provider within that provider's standard of care.
4. The GA Provider maintains patient records on the patient and must document: (a) the evaluation and treatment; (b) identity of the GA Providers providing services by electronic or other means; and (c) whether there is a referring practitioner (if so, a copy of the records must be sent to the referring practitioner).
5. If a physician will delegate to an NP or PA the ability to provide telemedicine services, the

physician must document to the board that the provision of telemedicine services is within his or her scope of practice and that the NP or PA has demonstrated competence in the provision of care by telemedicine.

6. The GA Provider must give patients who are receiving telemedicine services the name, credentials, and emergency contact information for the GA Provider and instructions on follow-up in the event of needed emergent care related to the treatment.
7. The GA Provider must make diligent efforts to have the patient seen and examined in-person by a GA licensed physician, PA, or NP at least annually.

**Medical Board Requirements for**

**Teleprescribing**. On March 19, 2020, the Board issued Ga. R & Regs. §360-3-.08 allowing for electronic prescribing during the emergency. This modification allows DEA registered practitioners to issue prescriptions for ***controlled substances*** for patients for whom they have not conducted an in-person medical evaluation as long as:

1. The prescription is issued for a legitimate medical purpose by a practitioner acting in the usual course of his/her professional practice.
2. The telemedicine communication is conducted using an audio-visual, real time, two-way interactive communication system; and
3. The practitioner is acting within federal and state law and otherwise following the telemedicine provisions outlined in Ga. R. & Regs. §360-3-.07.

Note: This waiver does not address the 72-hour supply of non-controlled substances medication called for under Ga. R. & Regs. §360-3-.07, and we are awaiting update from the Board whether it anticipates change on this front as well.

**Medicaid Requirements for Telemedicine to**

**Beneficiaries**. The Georgia Department of Community Health (DCH) issued Georgia Telemedicine Guidance on January 1, 2020 (accessible [here](#), pages 4-10 and 53). To date, DCH has not made any changes to this Guidance, but we are monitoring it closely for any updates.

The Georgia Telemedicine Guidance currently requires the following for telehealth services rendered to Medicaid beneficiaries:

1. The practitioner must be licensed in GA.
2. GT modifier and POS 02 need to be used for billing and coding of the professional services.
3. The telehealth services must be provided through interactive two-way video/audio communication methods.
4. Written consent must be obtained from the patient (a form is contained in the Georgia Medicaid guidance).
5. If the patient is a minor, the parent/guardian must be present and sign the consent form.
6. The telehealth visit must be documented to substantiate the services and noted that it was rendered via telehealth, identify the location of the originating site (e.g., patient home) and distant site.
7. Telehealth services provided via webcam or internet-based technologies like Skype that are not part of a secured network and do not meet HIPAA encryption compliance will not be covered. (Note that this requirement is currently at odds with the OCR policy change. We are reaching out to determine whether DCH is considering a waiver of these requirements.)

For a comprehensive summary of the current changes for telehealth and teleprescribing at the federal level, please stay tuned for tomorrow's posting.

For questions or more information for these new and developing Georgia telehealth and teleprescribing requirements and implications, please contact the authors or your Akemran Healthcare lawyer.

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