

IC 25-1-9.5

Chapter 9.5. Telemedicine Services and Prescriptions

IC 25-1-9.5-1

Allows agreements to alternative locations for providing telemedicine

Sec. 1. (a) This chapter does not prohibit a provider, insurer, or patient from agreeing to an alternative location of the patient or provider to conduct telemedicine.

(b) This chapter does not supersede any other statute concerning a provider who provides health care to a patient.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-2

"Distant site"

Sec. 2. As used in this chapter, "distant site" means a site at which a provider is located while providing health care services through telemedicine.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-3

"Originating site"

Sec. 3. As used in this chapter, "originating site" means any site at which a patient is located at the time health care services through telemedicine are provided to the individual.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-4

"Provider"

Sec. 4. As used in this chapter, "provider" means any of the following:

- (1) A physician licensed under IC 25-22.5.
- (2) A physician assistant licensed under IC 25-27.5 and granted the authority to prescribe by the physician assistant's supervisory physician in accordance with IC 25-27.5-5-4.
- (3) An advanced practice nurse licensed and granted the authority to prescribe drugs under IC 25-23.
- (4) An optometrist licensed under IC 25-24.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-5

"Store and forward"

Sec. 5. As used in this chapter, "store and forward" means the transmission of a patient's medical information from an originating site to the provider at a distant site without the patient being present.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-6

"Telemedicine"

Sec. 6. (a) As used in this chapter, "telemedicine" means the delivery of health care services using electronic communications and information technology, including:

- (1) secure videoconferencing;
- (2) interactive audio-using store and forward technology; or
- (3) remote patient monitoring technology;

between a provider in one (1) location and a patient in another location.

(b) The term does not include the use of 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.

As added by P.L. 78-2016, SEC.2.

IC 25-1-9.5-7

Standards for providing telemedicine; requirements

Sec. 7. (a) A provider 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 provider may not use telemedicine, including issuing a prescription, for an individual who is located in Indiana unless a provider-patient relationship between the provider and the individual has been established. A provider 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 provider 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
 - (B) to the extent reasonably possible, the identity of the requesting patient.
- (2) Disclose the provider's name and disclose whether the provider is a physician, physician assistant, advanced practice nurse, or optometrist.
- (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 provider has written 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 the provider is using an electronic health record system that the patient's primary care provider is authorized to access.
- (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.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-8

Issuing of prescription

Sec. 8. A provider may issue a prescription to a patient who is receiving services through the use of telemedicine even if the patient has not been seen previously by the provider in person if the following conditions are met:

- (1) The provider has satisfied the applicable standard of care in the treatment of the patient.
- (2) The issuance of the prescription by the provider is within the provider's scope of practice and certification.
- (3) The prescription is not for a controlled substance (as defined in IC 35-48-1-9).
- (4) The prescription is not for an abortion inducing drug (as defined in IC 16-18-2-1.6).
- (5) The prescription is not for an ophthalmic device, including:
 - (A) glasses;
 - (B) contact lenses; or
 - (C) low vision devices.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-9

Providers physically located outside Indiana; required certification; renewal

Sec. 9. (a) A provider who is physically located outside Indiana is engaged in the provision of health care services in Indiana when the provider:

- (1) establishes a provider-patient relationship under this chapter with; or
- (2) determines whether to issue a prescription under this chapter for;

an individual who is located in Indiana.

(b) A provider 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 provider and the provider's employer or the provider'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 provider and the provider's employer or provider'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 provider, the provider's employer, or the provider'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 were provided. The filing of the certification under this subsection shall constitute a voluntary waiver by the provider, the provider's employer, or the provider'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 provider that practices predominately in Indiana is not required to file the certification required by this subsection.

(c) A provider shall renew the certification required under subsection (b) at the time the provider renews the provider's license.

(d) A provider's employer or a provider's contractor is required to file the certification required by this section only at the time of initial certification.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-10

Discipline; penalties

Sec. 10. (a) A provider who violates this chapter is subject to disciplinary action under IC 25-1-9.

(b) A provider's employer or a provider's contractor that violates this section commits a Class B infraction for each act in which a certification is not filed as required by section 9 of this chapter.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-11

Pharmacies

Sec. 11. A pharmacy does not violate this chapter if the pharmacy fills a prescription for a controlled substance and the pharmacy is unaware that the prescription was written by a provider providing telemedicine services under this chapter.

As added by P.L.78-2016, SEC.2.

IC 25-1-9.5-12

Adoption of rules

Sec. 12. The Indiana professional licensing agency may adopt policies or rules under IC 4-22-2 necessary to implement this chapter. Adoption of policies or rules under this section may not delay the implementation and provision of telemedicine services under this chapter.

As added by P.L. 78-2016, SEC.2.