



# NEW JERSEY DIVISION OF **CONSUMER AFFAIRS**

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## **Telehealth Services During the COVID-19 Pandemic**

### **Frequently Asked Questions (FAQs)**

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Practitioners are encouraged to check their licensing board [website](#) for additional information.

The State of New Jersey COVID-19 Information Hub is [here](#).  
The NJ Department of Health COVID-19 Information Hub for Health Care Practitioners is [here](#).

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## **Background**

COVID-19 (“coronavirus disease 2019”) is the disease caused by a novel (new) coronavirus first detected in humans in December 2019. The State of New Jersey has adopted extraordinary measures to combat the spread of the disease including those that promote social distancing and require healthcare practitioners to take steps to protect themselves, their staff, and their patients. Even as the State has gradually reopened, there has been a clear recognition that mitigation strategies, including social distancing, are still necessary.

The availability of telehealth services is critical to allowing as many New Jerseyans as possible to get the medical services they need during the COVID-19 pandemic. The use of telehealth during the pandemic will maintain and increase access to health care services and reduce unnecessary in-person encounters that may spread COVID-19.

For these reasons, the New Jersey Division of Consumer Affairs (DCA)—which oversees 51 professional and licensing boards, including the Boards of Medical Examiners, Nursing, and Respiratory Care Therapists, and the boards that license mental health professionals—strongly encourages practitioners to use telehealth to the greatest extent possible for the duration of the current state of emergency and public health emergency declared by Governor Murphy in response to the COVID-19 pandemic.

As part of their response to the pandemic, the New Jersey Legislature and the Murphy Administration have taken steps to ensure New Jerseyans have access to telehealth, including tele-mental health services, to the greatest extent possible. These steps include temporarily relaxing requirements regarding which technologies may be used to provide telehealth services; who may provide telehealth services; how telehealth services are paid for; and where practitioners and patients/clients may be located when telehealth services are provided.

Answers to some frequently asked questions about telehealth during the COVID-19 pandemic are below. The purpose of this guidance is to clarify and explain existing rules in order to facilitate use of telehealth, as well as to compile in one location information from multiple New Jersey agencies that have adopted new telehealth policies in response to the COVID-19 pandemic.

## **General Questions**

### **1. What is “telehealth”?**

This document uses the term “telehealth” to refer generally to both “telehealth” and “telemedicine.” For purposes of this document, “telehealth” broadly refers to healthcare provided by telephone or through other electronic means by a provider at one location and a patient/client at another location.

Practitioners should note that New Jersey’s 2017 law (P.L. 2017, c. 117) defines “telehealth” as the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, practitioner consultation, patient and professional health-related education, public health, health administration, and other services, as allowed by New Jersey law. The law defines “telemedicine” as the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care practitioner who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening health care

practitioner, as allowed by New Jersey law, except that “telemedicine” does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

## **2. Who can practice telehealth and telemedicine?**

Anyone licensed in New Jersey to provide health care service to a patient, including anyone holding a temporary or emergency license (other than those foreign licensed physicians who obtained licenses through the Division’s Emergency Foreign Physician Licensure Program), is eligible to practice telehealth and telemedicine, provided the standard of care can be met for the service provided. Qualified health care practitioners include licensed physicians, nurses, nurse practitioners, psychologists, psychiatrists, clinical social workers, physician assistants, professional counselors, respiratory therapists, speech pathologists, audiologists, optometrists, or any other health care professional holding a valid license or certification in New Jersey.

## **3. Are mental/behavioral healthcare practitioners allowed to practice telehealth?**

Yes. A New Jersey mental and/or behavioral practitioner can provide counseling using telehealth, so long as they can meet the standard of care for the service provided.

## **4. If a healthcare practitioner is required to be supervised when providing in-person services under his/her license, will he/she need to be supervised when providing those services through telehealth?**

Yes. Currently, a practitioner licensed in New Jersey who must be supervised when providing services in person will need to continue to be supervised when providing services in person or via telehealth. For example, if a periodic review of charts is required for the in-person provision of services, the same would be required for the provision of services via telemedicine. For more information please refer to the rules and guidelines from the appropriate board.

## **5. Does a practitioner need to register to provide healthcare services through telehealth?**

No. Any individual licensed or certified to provide health care services in person may provide those services through telehealth when the provision of such health care services is consistent with the standard of care applicable for those services, without specifically registering as a telehealth provider.

## **6. Does a practitioner need to complete specific education in order to provide health care services through telehealth?**

No. There are no specific requirements imposed by the Division or any licensing board mandating that practitioners complete specific education as a prerequisite to providing services through telehealth.

## **7. Does the standard of care still apply during the Public Health Emergency?**

Yes. The standard of care applies whether a patient/client is seen via telehealth or in person. The standard is no different whether the encounter is via telehealth or in person. To that end, practitioners should avoid telehealth if an in-person visit or physical exam is required. For example, if a practitioner is unable to determine during a telehealth encounter whether a patient has an infection, or a blood clot, then the telehealth encounter will not meet the standard of care for the service being provided, and the practitioner must direct the patient to seek in-person care.

## **8. What are the requirements for documenting a telehealth visit?**

The recordkeeping standards do not change based on the setting by which the patient/client is seen. Practitioners should ensure that items such as relevant findings, tests ordered, treatment recommendations, prescriptions issued, and consent are documented. Verification of a patient/client identity is extremely important in a telephone-only encounter. For example, collection of a patient or client insurance ID number and comparison of the number to practice records is a possible method of identification.

Appropriate and detailed patient/client records are needed to support billing for services. Board regulations regarding improper billing remain in effect. “Improper” means the billing is false, fraudulent, misrepresents services provided, or otherwise does not meet professional standards. Complete medical record documentation guards against such accusations.

Finally, practitioners should review the elements of the CPT or other applicable code they expect to use and reflect those in the medical/client record.

## **9. Does a practitioner need to obtain consent from a patient to engage in a telehealth encounter?**

A practitioner does not need explicit consent from the patient to provide services through telehealth, as the patient’s voluntary participation in the telehealth encounter is considered sufficient consent to proceed via telehealth. The patient’s affirmative consent is, however, still necessary to share medical information with any other health care practitioner or if the particular service requires informed consent. Consent may be oral, written or digital, provided that the chosen method of consent is deemed appropriate under the standard of care.

## **10. How can a practitioner establish a practitioner-patient/client relationship utilizing telehealth?**

New Jersey law requires a practitioner to establish a proper practitioner-patient/client relationship to engage in telehealth, which includes exchanging certain identifying information. Practitioners should use clinical judgment to obtain relevant medical/health history and review patient/client records available to meet applicable standards of care.

During the COVID-19 emergency, New Jersey is temporarily waiving the requirement that practitioners review a patient/client's medical records prior to an initial telehealth encounter.

Therefore, the unavailability of records at this time is not a barrier to the establishment of a proper practitioner-patient/client relationship for purposes of telehealth.

### **11. What technologies or devices can practitioners use to deliver telehealth and telemedicine?**

During the state of emergency and public health emergency related to COVID-19, New Jersey has relaxed the usual technological requirements for providing telehealth and telemedicine in most cases, although particular technological requirements still apply for encounters when Controlled Dangerous Substances (CDS) are being prescribed without a previous in-person examination. Otherwise, practitioners may now use a broader range of communication tools, including audio-only telephone or video technology commonly available on smart phones and other devices. While practitioners now have the flexibility to use all available and appropriate technologies, they must ensure that their choice of communication tools allows them to meet the applicable standard of care.

### **12. Are there any requirements regarding electronic equipment and internet speed to provide telehealth services?**

While there are no specific requirements for electronic equipment and/or internet speed to provide telehealth services, practitioners must ensure that the particular platform used does not result in encounters being accessible to the public, has sufficient data security and internet speed so that the confidentiality of the encounter is preserved, and has sufficient capability to allow the practitioner to meet the applicable standard of care for the service provided.

### **13. How does HIPAA apply?**

Application of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) is determined by the federal government, specifically the Office of Civil Rights (OCR) within the U.S. Department of Health and Human Services. HIPAA ordinarily requires that the technologies used to deliver telehealth meet rigorous privacy protection standards. However, on March 17, 2020, OCR announced that it will exercise its enforcement discretion and will not impose penalties for HIPAA violations against health care practitioners that in good faith provide telehealth using non-public facing audio or video communication products, such as FaceTime, Facebook Messenger video chat, Google Hangouts video, Zoom, or Skype, during the nationwide public health emergency related to COVID-19.

While practitioners now may choose to deliver telehealth through platforms that were previously off limits, public-facing platforms such as TikTok, Twitch, Facebook Live, and Periscope, should not be used to provide telehealth even during the COVID-19 public health emergency.

Protecting health information is still important. Practitioners must take reasonable steps to avoid unauthorized disclosure of patient/client health information.

For more information, please see OCR's [Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency](#).

**14. Can a practitioner see new patients using telehealth and telemedicine?**

Yes. As long as the requisite practitioner-patient/client relationship is established via the telehealth encounter, a practitioner is not required to conduct an initial in-person visit with the patient as a condition for providing services through telehealth. However, the practitioner must first determine whether he or she can meet the standard of care required by law before providing such service.

The practitioner must provide the patient with the practitioner's identity, professional credentials and contact information during and after providing services, so that the patient can contact the practitioner, or a substitute practitioner acting on behalf of the practitioner, for at least 72 hours following services.

**15. What types of care can be provided by a phone-only encounter?**

During the COVID-19 emergency, practitioners have the flexibility to use all available and appropriate technologies to deliver telehealth as long as these technologies allow them to meet the standard of care. Practitioners may use phone-only encounters to establish a practitioner-patient/client relationship and to provide medical services consistent with the standard of care.

However, a practitioner may not utilize a phone-only encounter to prescribe CDS to a patient for whom the practitioner has never conducted an **initial** in-person examination; in that case, the telemedicine encounter must be conducted using an audio-visual, real-time, two-way interactive communication system.

**16. Are there rules regarding Practitioner-Patient/Client Location?**

During the COVID-19 emergency the State has waived site-of-service requirements for the Medicaid program, to allow licensees to provide telehealth from any location and individuals to receive services via telehealth at any location. For non-Medicaid patient/client interactions, other than licensure requirements addressed in questions 15 and 16, below, there are no site-of-service requirements imposed by the professional boards housed within the Division of Consumer Affairs.

**17. Does a practitioner need to be physically present in New Jersey to provide services via telehealth to patients located in New Jersey?**

No. If the health care practitioner is licensed in New Jersey but not physically present in New Jersey, he or she may provide telehealth services to a patient/client located in New Jersey. However, the practitioner should check the laws and regulations of the state or states where the practitioner is located in order to determine what licensing requirements, if any, will be imposed.

Out-of-state practitioners not licensed or certified in New Jersey may also provide services via telehealth to a patient/client located in New Jersey, if the practitioner (1) holds a valid license in another state or territory of the United States or in the District of Columbia, (2) provides services within the scope of their authorized practice, and (3) if there is no pre-existing practitioner-patient relationship, provides services that are limited only to screening for, diagnosing, or treating COVID-19.

**18. May a practitioner located in New Jersey offer telehealth services to a patient located outside of New Jersey?**

A practitioner licensed in New Jersey is permitted **under New Jersey law** to provide telehealth services to a patient located outside of New Jersey. However, the practitioner should check the laws and regulations of the state or states where the patient/client is located in order to determine what licensing requirements, if any, will be imposed.

**19. Do out-of-state practitioners licensed in New Jersey via the Temporary Emergency License for Out-of-State Practitioners process need a New Jersey CDS registration to prescribe CDS in New Jersey?**

No. Out-of-state practitioners licensed in New Jersey via the Temporary Emergency Licensure process established in response to COVID-19 need not hold a New Jersey CDS registration in order to prescribe CDS in New Jersey, so long as they hold an active DEA registration in good standing in their home state; have the authority to prescribe medications, including CDS, in their home state; and prescribe CDS consistent with the scope of practice for the applicable health care profession under New Jersey laws and regulations.

**20. Are out-of-state practitioners licensed in New Jersey via the Temporary Emergency License for Out-of-State Practitioners process required to register with the New Jersey Prescription Monitoring Program?**

Yes. Such licensees are required to register with New Jersey's Prescription Monitoring Program and comply with all applicable laws and rules when prescribing CDS or human growth hormone under the authority of their New Jersey temporary license.

For more information about New Jersey's Prescription Monitoring Program (PMP) and the mandatory look-up requirements, please see the [PMP website](#).

**21. May a practitioner prescribe medications via telehealth?**

Yes. A practitioner may prescribe medications via telehealth, including prescribing Schedule II-V CDS, but there are specific requirements when prescribing CDS or authorizing medical cannabis. (See FAQs 22-28.)

**Prescribing CDS and Authorizing Medical Marijuana via Telemedicine**

**22. When prescribing, dispensing or administering CDS, may a practitioner conduct the physical exam via telemedicine?**

Yes. During the current public health emergency, a practitioner may conduct the physical exam required before prescribing CDS through a telemedicine encounter. This physical exam may be conducted by phone, except when prescribing at a first visit. If the practitioner has not previously performed an in-person evaluation, the telemedicine examination must utilize real-time, interactive, audio-visual methods. In addition, in all circumstances, (1) the telemedicine encounter must be

consistent with the standard of care; (2) the prescription must be issued for a legitimate medical purpose; and (3) the practitioner must be acting in accordance with applicable federal and state law.

**23. When conducting an exam via telemedicine prior to prescribing opioids in any Schedule, must a practitioner still discuss the risks and benefits of opioid treatment and alternatives?**

Yes. A practitioner who utilizes telemedicine to conduct an exam prior to prescribing a Schedule II CDS for pain, or any opioid, is still required to discuss with the patient, or the patient's parent or guardian (if the patient is under 18), the risks and benefits associated with the medication and alternative treatments.

**24. When continuously prescribing for the management of chronic pain, may a practitioner utilize telemedicine to (1) conduct the necessary quarterly review of the patient's course of treatment, and/or (2) assess the patient prior to issuing each prescription during a course of treatment for chronic pain?**

Yes. During the current public health emergency, a practitioner may utilize telemedicine to (1) conduct a quarterly review of the patient's course of treatment and/or (2) assess the patient prior to issuing each prescription, including those for Schedule II CDS, during a course of treatment for chronic pain, so long as the telemedicine encounter is consistent with the standard of care and the encounter is documented in the patient record.

**25. When issuing a certification for the medical use of cannabis, may a physician utilize telemedicine to satisfy the requirement to take a comprehensive medical history and physical exam?**

Yes. During the current public health emergency, a physician issuing a certification for the medical use of cannabis may utilize telemedicine to satisfy the requirement to take a comprehensive medical history and physical exam, so long as the telemedicine encounter is consistent with the standard of care.

**26. Are there specific technological requirements for the telemedicine encounter utilized by a physician in issuing a certification for the medical use of cannabis?**

Yes. The telemedicine communication must be conducted using an audio-visual, real-time, two-way interactive communication system.

### **Out-of-State Practitioners**

**27. Can out-of-state practitioners use telehealth to treat patients/clients in New Jersey?**

Out-of-state practitioners can obtain a temporary emergency license in New Jersey via the Temporary Emergency License for Out-of-State Practitioners program, which will allow them to provide care in person or using telehealth. DCA and several professional and occupational licensing boards have taken measures to expedite licensure of out-of-state professionals, by waiving certain licensure

requirements, including fees, during the COVID-19 emergency. An individual applying for a specific license, certificate of registration or certification in New Jersey must have a corresponding current license, certificate of registration or certification (in good standing) in another State to be eligible.

To apply for a temporary emergency license, eligible practitioners may apply online [here](#). Applicants will receive a reply email within 24 hours stating whether their application was granted. If granted, the practitioner will be deemed licensed in New Jersey until February 28, 2021. Applicants who receive a temporary emergency license are strongly encouraged to apply for a plenary license immediately should they anticipate any need to continue to provide health care services to New Jersey patients after February 28, 2021.

Practitioners who obtain a temporary emergency license can use telehealth to treat patients/clients in New Jersey within their scope of practice and the scope of the license issued. This may include treatment related to COVID-19 as well as treatment unrelated to COVID-19.

Out-of-state practitioners who do not hold a New Jersey license may be permitted to use telehealth to treat patients/clients in New Jersey during the COVID-19 emergency, subject to limitations that do not apply to New Jersey licensees (including those holding temporary emergency licenses). Specifically, if an out-of-state practitioner without a New Jersey license has a pre-existing relationship with a patient/client in New Jersey, the practitioner may continue to provide care using telehealth to that patient/client during the COVID-19 emergency.

In addition, an out-of-state practitioner without a New Jersey license may provide care using telehealth to a patient/client in New Jersey with whom the practitioner did not have a pre-existing relationship, subject to several limitations. The limits include that the practitioner:

- 1) Is licensed or certified (in good standing) in another State;
- 2) Practices within their scope; and
- 3) Only provides screening, testing and treatment for COVID-19.

## **Billing and Insurance**

### **28. What is the N.J. Department of Banking and Insurance's emergency telemedicine guidance?**

Under emergency guidance from the Department of Banking and Insurance (DOBI), state-regulated health insurers and commercial health maintenance organizations must:

- Pay in-network health professionals at least the same rate for telemedicine services as for in-person services, including but not limited to covered mental health and behavioral services, physical therapy, occupational therapy, and speech therapy.
- Grant any requested in-plan exception for individuals to access out-of-network telemedicine services when an in-network telehealth practitioner is not available.
- Cover telemedicine services using any platform permitted by state law. Carriers are not permitted to impose any specific requirements on the technologies used to deliver telemedicine

and/or telehealth services (including any limitations on audio-only or live video technologies) during the COVID-19 emergency.

- Not require more documentation for telemedicine services than they require for in-person services.
- Cover these services without costs sharing (i.e. copayments, deductibles, or coinsurance).
- Not impose any restriction on the reimbursement for telehealth or telemedicine that requires that the practitioner who is delivering the services be licensed in a particular state, so long as the practitioner is in compliance with P.L. 2020, c.3 and c.4 and DOBI's emergency guidance.
- Not impose prior authorization requirements on medically-necessary treatment that is delivered via telemedicine or telehealth.

The emergency guidance does not affect how the claim for the service should be coded or submitted. Claims must use the codes reflecting the services actually provided and the method of care delivery actually used. For more details, see DOBI's COVID-19 web page [here](#).

For information on Medicaid Managed Care Organizations, see the FamilyCare / Medicaid information in the Answer to Question #13.

## **29. How does a practitioner bill for telehealth?**

(Note: Much of the discussion that follows uses CPT-based billing terminology. Practitioners should use billing systems and related guidance applicable to their profession. This information is provided for informational purposes only. The appropriate codes and other information are changing quickly. Please refer to the information each health insurer makes available to ensure accurate billing and check often with the CMS website for Medicare.)

Claim and billing questions for state-regulated insurance plans should be directed to the insurance carrier. The standard of care and medical/client record documentation requirements for practitioners are the same whether the practitioner provides care for the patient/client in person or via telemedicine.

Your patient/client's plan ID card will indicate whether the plan is insured, which means it is state regulated and subject to the emergency rule, or self-funded, in which case it is subject to federal law. A practitioner should contact the plan administrator listed on the patient/client ID card for information about whether telemedicine is covered by the self-funded plan.

Practitioners must submit claims in accordance with CPT and other coding requirements for the services and through the modes of delivery actually provided. There are several different CPT codes required for in-person visits, telemedicine services, and telephone consultations, and those should accurately reflect the mode of delivery.

All claims related to testing or treatment for a COVID-19 must include the correct COVID modifiers based on federal guidance when available. Check [here](#) for updates.

Specific codes should be used for telephone-only consultations (different from those for audio/visual telemedicine services). Practitioners should review CPT coding requirements as well as the billing guidelines for each health insurer and ensure that they are using the right code for the right service, plus any required modifiers or place of service codes.

Examples of CPT codes that can be billed as a telemedicine office visit include:

- New patient visit codes: 99201 99202 99203 99204 99205
- Established patient visit codes: 99211 99212 99213 99214 99215

Insurance plans may also ask for the claim to include a modifier (either -GQ, GT, or -95) and a place of service code (2 if the service is provided by telemedicine).

Telephone specific evaluation and management CPT codes are (similar to office visit E&M codes) partially time based. They include:

- 99441 (5-10-minute encounter);
- 99442 (11-20-minute encounter); and
- 99443 (21-30-minute encounter).

CMS adopted two CPT codes (U0001 and U0002) for COVID-19 testing. Some commercial plans, but not all, will accept CPT code 87635.

**Medicaid / NJ FamilyCare.** Health care practitioners may bill for any Medicaid billable service using the same billing codes and rates used for face-to-face services. There is no need to use any additional procedure codes or additional modifiers. For additional information regarding temporary telehealth guidelines for Medicaid / NJ FamilyCare, see the Department of Human Services [newsletter](#) from March 21, 2020.

### **30. How does a practitioner bill for telehealth to establish the practitioner/patient relationship?**

If the telehealth visit was to establish a new patient, then the practitioner must follow the standard of care and documentation requirements for such a visit and should bill for that type of visit by telephone or telemedicine, as applicable. Items such as relevant findings, tests ordered, treatment recommendations, prescriptions, consents, etc. are the types of information needed in a patient/client record. Again, practitioners should review the elements of the CPT (or other applicable) code they expect to use and reflect those in the patient/client record. The billing practitioner is accountable for the correct submission of claims for payment and the documentation to support the claim.

### **31. How does a practitioner bill for a telehealth consultation for follow-up care?**

If the telehealth consultation was for follow-up care, then the practitioner must follow the standard of care and documentation for such a visit and should bill for that type of visit. Items such as relevant findings, tests ordered, treatment recommendations, consents, etc. are the types of information needed in a patient/client record.

Once again, practitioners should review the elements of the CPT/ billing code they expect to use and reflect those in the patient/client record. The billing practitioner is accountable for the correct submission of claims for payment and the documentation to support the claim.

### **32. What phone calls are not billable?**

To be eligible for payment, services provided through a telemedicine visit, including audio-only telephone calls, must be medical/health care services that would be billable if provided in person. Telephone calls with office staff and other calls for administrative purposes, including requests for refills, scheduling, payment or billing issues are not billable services. It is also important that practitioners not double bill for services.

For example, many follow-up visits are considered part of a global package or are considered to be already covered by the fact an in-person visit takes place shortly before or after the telemedical encounter. Please review the CPT (or other applicable) code in question for those encounters which may not be billed separately from a recent (or subsequent) office visit.

### **33. What are the requirements for starting a telehealth or telemedicine organization in New Jersey?**

A telemedicine or telehealth organization providing services in New Jersey must register with the Department of Health (“DOH”). For more information about registration requirements please contact the website for the Department of Health at <https://www.nj.gov/health/>.

**Practitioners are encouraged to check their licensing board [website](#) for additional information.**

**The State of New Jersey COVID-19 Information Hub is [here](#).  
The NJ Department of Health COVID-19 Information Hub for Practitioners is [here](#).**