

CHAPTER 50-02-15 TELEMEDICINE

Section

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50-02-15-01. Definitions.

As used in this chapter:

1. "Telemedicine" means the practice of medicine using electronic communication, information technologies, or other means between a licensee in one location and a patient in another location, with or without an intervening health care provider. It includes direct interactive patient encounters as well as asynchronous store-and-forward technologies and remote monitoring.
2. "Licensee" means a physician or physician assistant licensed to practice in North Dakota. A physician assistant practicing telemedicine from another state is subject to the rules regarding physician collaboration, except that collaboration must be by a North Dakota licensed physician who is practicing telemedicine in North Dakota and need not be by a North Dakota licensed physician who is physically located in North Dakota.

History: Effective January 1, 2018; amended effective October 1, 2022.

General Authority: NDCC 43-17-01(6)

Law Implemented: NDCC 43-17-01, 43-17-44

50-02-15-02. Prescribing.

A licensee who has performed a telemedicine examination or evaluation meeting the requirements of this chapter may prescribe medications according to the licensee's professional discretion and judgment. Opioids may only be prescribed through telemedicine if done so as a federal food and drug administration-approved medication-assisted treatment for opioid use disorder. Opioids may not be prescribed through a telemedicine encounter for any other purpose.

Licensees who prescribe controlled substances, as defined by North Dakota law, in circumstances allowed under this rule, must comply with all state and federal laws regarding the prescribing of controlled substances, and must participate in the North Dakota prescription drug monitoring program.

History: Effective January 1, 2018.

General Authority: NDCC 43-17-45

Law Implemented: NDCC 19-02.1-15.1, 19-03.1-22.4, 19-03.5-09, 43-17-45

50-02-15-03. Exceptions.

A physician who holds an active, unrestricted license in good standing to practice medicine or osteopathy in any state or territory of the United States, the District of Columbia, or a province of Canada, may practice medicine or osteopathy in this state via telehealth without first obtaining a license from the North Dakota board of medicine if one of the following applies:

1. A physician who has established a patient-provider relationship in another state with a patient who is a resident of North Dakota may provide continued care to the patient via telehealth without obtaining a North Dakota physician license subject to the following:
 - a. The provider-patient relationship must have been established in a state in which the physician is licensed;

- b. Subsequent care may be provided to the patient via telehealth while the patient is in North Dakota if the care is logical and expected continuation of care previously provided in the state where the physician is licensed. If the patient is presenting with new medical conditions, or conditions for which the standard of care dictates an in-person encounter is needed, the patient shall return to the state in which the physician is licensed for care or must be referred to a North Dakota licensed health care provider; and
 - c. The telehealth care provided to a patient located in North Dakota may continue for up to one year after establishment of the provider-patient relationship in another state, after which an encounter must take place in a jurisdiction where the physician is licensed before the telehealth may resume for another one year.
2. Temporary care may be provided if a physician has an established patient-provider relationship with an individual who is in North Dakota temporarily for business, work, education, vacation, or other reasons and the individual requires health care services from that primary provider.
 3. A physician may provide health care services in preparation for a scheduled in-person care visit.
 4. A physician licensed in another state may consult using telemedicine or other means with a North Dakota licensed physician who has been and remains responsible for the diagnosis and treatment of the patient within the state and requests the consultation.
 5. A physician may provide gratuitous service in the case of an emergency.

By engaging in virtual care with a patient located in North Dakota, a provider exempted from North Dakota licensure under this section consents to the applicable North Dakota laws, rules, and regulations governing the provider's profession, including sections 43-17-44 and 43-17-45 of the North Dakota Century Code, this title, North Dakota community standards of care, and the jurisdiction of the board, including the board's disciplinary process.

History: Effective January 1, 2025.

General Authority: NDCC 43-17-07.1(10)

Law Implemented: NDCC 43-17-02.3(5)