COMMONWEALTH OF MASSACHUSETTS

BOARD OF REGISTRATION IN MEDICINE

POLICY 2020-01

POLICY ON TELEMEDICINE IN THE COMMONWEALTH

Amended October 6, 2022

The Board of Registration in Medicine (Board) adopts this policy for the purpose of clarifying the practice of medicine by physicians via telemedicine.

1. A physician licensed by the Board may engage in the practice of medicine in Massachusetts. As set forth in the Board’s regulations at 243 CMR 2.01, the practice of medicine includes telemedicine, which is defined as the provision of services to a patient by a physician from a distance by electronic communication in order to improve patient care, treatment or services. The Board’s interpretation of the definition of telemedicine in its regulation encompasses the activities set forth in the definition of telehealth at M.G. L. c. 112, § 5O[[1]](#footnote-1).
2. The Board deems a physician to be practicing medicine in Massachusetts when the patient is physically located in Massachusetts. A physician licensed by the Board whose license *does not* restrict practice to a particular location may engage in the practice of medicine with respect to patients in Massachusetts irrespective of whether the physician is physically located in Massachusetts. A physician licensed by the board whose license *does* restrict practice to a particular location may engage in the practice of medicine with respect to patients in Massachusetts only from the location identified on his or her license.
3. Physicians licensed by the Board who provide reproductive health care services or gender-affirming health care services that meet the definition of “legally protected health care activity” set forth in M.G.L. c. 9A, § 1 and M.G.L. c. 12, § 11½[[2]](#footnote-2) are legally protected to the extent provided for in St. 2022, c. 127 *An Act Expanding Protections for Reproductive and Gender-Affirming Care*, and BORIM Policy 2022-06 Policy Implementing Chapter 127, regardless of the patient’s location.
4. Except where otherwise provided by applicable law, the practice of medicine shall not require a face-to-face encounter between the physician and the patient prior to health care delivery via telemedicine.  The standard of care applicable to the physician is the same whether the patient is seen in-person or through telemedicine.

1. Physicians licensed by the board may obtain proxy credentialing and privileging for telehealth services with other health care providers, as defined in section 1 of chapter 111, or facilities that comply with the federal Centers for Medicare and Medicaid Services' conditions of participation for telehealth services.

1. G.L. c. 112, § 5O(a) For purposes of this section "telehealth'' shall mean the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition. [↑](#footnote-ref-1)
2. M.G.L. c. 9A, § 1 and M.G.L. c. 12, § 11½ “Legally-protected health care activity”, (i) the exercise and enjoyment, or attempted exercise and enjoyment, by any person of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth or the provision of insurance coverage for such services; or (ii) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise and enjoyment, or attempted exercise and enjoyment, of rights to reproductive health care services or gender-affirming health care services secured by the constitution or laws of the commonwealth or to provide insurance coverage for such services; provided, however, that the provision of such a health care service by a person duly licensed under the laws of the commonwealth and physically present in the commonwealth and the provision of insurance coverage for such services shall be legally protected if the service is permitted under the laws of the commonwealth, regardless of the patient’s location; and provided further, that “legally-protected health care activity” shall not include any service rendered below an applicable professional standard of care or that would violate anti-discrimination laws of the commonwealth. [↑](#footnote-ref-2)