

Colorado

Colo. Rev. Stat. § 12-240-104(6); Colo. Rev. Stat. § 12-220-104(14) (red flag); Colo Rev. Stat. § 12-240-107(2); Colo. Rev. Stat. § 12-240-121; Colo. Rev. Stat. § 10-16-123(e); Colo. Rev. Stat. § 25.5-5-414; Colo. Rev. Stat. § 25.5-5-320; Senate Bill 20-212 (2020 Session); 3 Colo. Code Regs. § 719-1-3.00.21

Introduction

Medicaid reimbursement? Yes for live video, remote monitoring, and audio only. No to store-forward. **Private payer law?** Yes, and no pay parity. **Requirements?** ASLP-IC, CC, EMS, IMLC, NLC, OT, PSY, PTC and consent requirements. (* See Compact websites for implementation and license issuing status and other related requirements.)

How is Telehealth Defined

“Telehealth” means a mode of delivery of health care services through telecommunication systems, including information, electronic, and communication technologies, to facilitate the assessment, diagnosis, consultation, treatment, education and care management of a resident’s health care when the resident and practitioner are located at different sites. Telehealth includes ‘telemedicine’ as defined in Section 12-36-102.5(8), C.R.S.” SOURCE: 6 CO Regs. Rule 1011-1. Ch. 5, Sec. 2. (Accessed Sept 2022).

“Telemedicine” means the delivery of medical services through technologies that are used in a manner that is compliant with HIPAA, including information, electronic, and communication technologies, remote monitoring technologies, and store-and-forward transfers, to facilitate the assessment, diagnosis, consultation, or treatment of a patient while the patient is located at an originating site and the person who provides the services is located at a distant site. SOURCE: CO Revised Statutes 12-240-104(6) & HB 21-1190 (2021 Session). (Accessed Sept 2022).

“Telepsychology” means the provision of psychological services using telecommunications technologies. SOURCE: CO Revised Statutes 12-245-301(6). (Accessed Sept 2022).

Who Can Be a Telehealth Provider

The following may engage in telehealth activities: Physician, Clinic, Osteopath, Federally qualified health centers, Psychologist, MA Psychologist, Physician assistant, Nurse practitioner, Rural health clinics Colo. Rev. Stat. § 25.5-5-320; Colo. Rev. Stat. § 10-16-102(56).

Scope of Practice/Practice Standards

Evaluation and Treatment of the Patient: An appropriate medical evaluation and review of relevant clinical history, commensurate with the presentation of the patient to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided, should be performed prior to providing treatment, including issuing prescriptions, electronically or otherwise. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (encounter in person) settings. Treatment, including issuing a prescription based solely on an online questionnaire, does not constitute an acceptable standard of care.

Continuity of Care: Physicians should adhere to generally accepted standards of medical practice as it relates to continuity and coordination of care.

Referrals for Emergency Services: An emergency plan should be provided by the provider to the patient when the care provided using telehealth technologies indicates that a referral to an acute care facility or Emergency Department for treatment is necessary for the safety of the patient.

Medical Records: The medical record should include, if applicable, copies of all patient-related electronic communications, including patient-provider communication, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and

instructions obtained or produced in connection with the utilization of telehealth technologies. Informed consents obtained in connection with an encounter involving telehealth technologies should also be filed in the medical record. The patient record established during the use of telehealth technologies must be accessible and documented for both the provider and the patient, consistent with all established laws and regulations governing patient healthcare records.

Privacy and Security of Patient Records & Exchange of Information: Providers should meet or exceed applicable federal and state legal requirements of medical/health information privacy, including compliance with the Health Insurance Portability and Accountability Act (HIPAA) and state privacy, confidentiality, security, and medical record retention rules. Written policies and procedures should be maintained at the same standard as traditional in person encounters for documentation, maintenance, and transmission of the records of the encounter using telehealth technologies.

Parity of Professional and Ethical Standards: A provider's professional discretion as to the diagnoses, scope of care, or treatment should not be limited or influenced by non-clinical considerations of telehealth technologies, and provider remuneration or treatment recommendations should not be materially based on the delivery of patient-desired outcomes (i.e. a prescription or referral) or the utilization of telehealth technologies.

Exemptions from Policy 40-27 Guidelines for the Appropriate Use of Telehealth Technologies in the Practice of Medicine: The Colorado Medical Board recognizes the challenges during a public health emergency. The Food and Drug Administration ("FDA") guidelines for testing in times of a public health emergency shall guide Colorado policy for the purposes of Policy 40-27: Guidelines for the Appropriate Use of Telehealth Technologies in the Practice of Medicine.

SOURCE: The Colorado Medical Board Policies, 40-27, page 101-103. Guidelines for the Appropriate Use of Telehealth Technologies in the Practice of Medicine. 8/19/21.

Licensure Required

For state licensure purposes, the practice of medicine includes delivery of telehealth; physicians are not authorized to deliver services outside their scope of practice in the delivery of telemedicine. CRS § 12-240-107(1)(g). A Colorado license is not required for gratuitous rendering of services in case of emergency, and a licensed physician who is lawfully practicing medicine in another state or territory without restrictions is permitted to provide occasional services in Colorado (if certain other requirements are met). CRS § 12-240-107(3)(b)

Providers who evaluate, treat or prescribe through telehealth technologies are practicing medicine. The practice of medicine occurs where the patient is located at the time telehealth technologies are used. Therefore, a provider must be licensed to practice medicine in the state of Colorado in order to evaluate or treat patients located in Colorado utilizing telehealth technologies or otherwise. SOURCE: The Colorado Medical Board Policies, 40-27, page 101. Guidelines for the Appropriate Use of Telehealth Technologies in the Practice of Medicine.

Accepted Modalities

Telehealth includes "synchronous interaction," meaning real-time interactions between a patient located at the originating site, and a provider located at a distant site; "store-and-forward transfers," meaning the electronic transfer of a patient's medical information or an interaction between providers that occurs between an originating site and distant sites when the patient is not present. "Telehealth" does not include the delivery of health care services via (A) voice-only telephone communication or text messaging; (B) facsimile machine; or (C) electronic mail systems. CRS § 10-16-123(e).

Excluded Services That Cannot be Provided Via Telehealth

An in-person encounter between the patient and the practitioner is not required to establish a relationship. 3 Colo. Code Regs. § 719-1-3.00.21

The recommendation of medical marijuana via telehealth technologies is prohibited. The Colorado Medical Board Policies, 40-27, page 101. Guidelines for the Appropriate Use of Telehealth Technologies in the Practice of Medicine.

Consent Requirement

Colorado Medical Board

Appropriate informed consent should be obtained for a telehealth encounter including those elements required by law and generally accepted standards of practice. Informed consents obtained in connection with an encounter involving telehealth technologies should also be filed in the medical record. SOURCE: The Colorado Medical Board Policies, 40-27, page 101-102. Guidelines for the Appropriate Use of Telehealth Technologies in the Practice of Medicine. 8/19/21.

Colorado Mental Health Boards

Once a licensee, certificate holder, or registrant chooses to provide psychotherapy via electronic means, the licensee, certificate holder, or registrant is expected to carefully identify and address issues that involve implementing consent form(s) and proper disclosure(s) including, but not limited to the client's knowledge regarding security issues, confidentiality, structure, etc. SOURCE: State Board of Psychologist Examiners Policies, 30-1, p. 11. Teletherapy Policy – Guidance regarding Psychotherapy through Electronic Means. 2/2/18.

Workers' Compensation

All treatment provided through telemedicine shall comply with the applicable requirements found in the Colorado Medical Practice Act and Colorado Mental Health Practice Act, as well as the rules and policies adopted by the Colorado Medical Board and the Colorado Board of Psychologist Examiners and shall follow applicable laws, rules and regulations for informed consent.

SOURCE: 7 CO Regs. Rule 1101-3, 18-5(I), p. 30.

Additional Reimbursement-Specific Requirements May Apply

Yes.