

Guideline

Title:	Appropriate Use of Telehealth	OD 18-01
References:	Chapter 18.53 RCW	
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Purpose

To clarify the appropriate use of telehealth in optometric practice, and to outline the Board of Optometry's expectations of optometric physicians when using telehealth technology.

Background

Advances in technology, communication and data management have resulted in new approaches to delivery of optometric medical care, including those in which physician and patient are not in the same physical location, but interact using enabling technology. These new approaches are referred to as telehealth. If employed appropriately, telehealth can provide important benefits to patients, including:

- Increased access to health care.
- Access to health care professionals who are not available in the patient's home community.
- Rapid availability of patient records.
- Potential reduction in the cost of health care delivery.

The Board of Optometry (Board) developed this guideline to describe how the Board will define, supervise, regulate and discipline telehealth practices consistent with existing statutes governing the practice of optometry within the state of Washington. Recognizing that technology is developed and applied to practice with impressive speed, this guideline's intent is to delineate general principles applicable to both existing and future technologies, rather than focusing on specific current technologies.

Definitions

Enabling Technology: Technology and devices allowing a practitioner to engage in telehealth. Usually this is electronic. These technologies may simply transmit audio information and/or images at one end of the spectrum, or at the other end they may enable one to perform complex invasive procedures employing robotics.

In-person contact: Interaction between a practitioner and patient in the physical presence of each other as opposed to remote interaction that characterizes telehealth.

Practice of optometry: For the purposes of this guideline, this is evaluation, diagnosis or treatment of a patient for which the practitioner receives, or would reasonably be expected to receive, compensation in some form. The practice of optometry occurs at the location of the patient.¹

Practitioner: The word “practitioner” throughout this document means optometric physicians licensed under [Chapter 18.53 RCW](#).

Practitioner-Patient Relationship: The relationship between a provider of optometric services (practitioner) and a receiver of optometric services (patient) based on mutual understanding of their shared responsibility for the patient’s health care. The relationship is clearly established when the practitioner agrees to undertake diagnosis and/or treatment of the patient and the patient agrees that the practitioner will diagnose and/or treat, whether or not there has been or is an in-person encounter between the parties. The parameters of the practitioner-patient relationship for telehealth should mirror those that would be expected for similar in-person medical encounters.

Telehealth: The practice of optometry using enabling technology between a practitioner in one location and a patient in another location with or without an intervening practitioner. It is a tool in optometric practice, not a separate form of optometry.

Guidelines for Appropriate use of Telehealth

1. **Licensure:** A practitioner using telehealth to practice optometry on patients in Washington must be licensed to practice optometry in Washington. This includes practitioners who treat or prescribe to Washington patients through online service sites.
2. **Standard of Care:** Practitioners using telehealth will be held to the same standard of care as practitioners engaging in more traditional in-person care delivery, including the requirement to meet all technical, clinical, confidentiality and ethical standards required by law. Failure to conform to the standard of care, whether rendered in person or via telehealth, may subject the practitioner to discipline by the Board. Some elements of the standard of care as applied to telehealth include:
 - a. **Practitioner-Patient Relationship:** When practicing telehealth, a practitioner must establish a practitioner-patient relationship with the patient. The absence of in-person contact does not eliminate this requirement. Patient completion of a questionnaire does not, by itself, establish a practitioner-patient relationship, and therefore treatment, including prescriptions, based solely on a questionnaire does not constitute an acceptable standard of care.

¹ The Board recognizes that there may be situations in which a patient, following in-person contact with a practitioner in Washington, may communicate with that practitioner by phone, email or other technology for clarification, advice or follow-up regarding that visit from somewhere outside Washington. Response of the practitioner in such situations, even if not licensed for the location of the patient at that time, would not be considered unlicensed or illegal practice.

- b. **Informed Consent:** As with optometric care involving in-person contact, a practitioner should obtain and document appropriate informed consent for telehealth encounters. Because of the unique characteristics of telehealth, it is best practice for the informed consent to include:
 - i. Reasonable understanding by all parties of the enabling technologies used, their capabilities and limitations, and a mutual agreement that they are appropriate for the circumstances;
 - ii. The credentials of the practitioner.

- c. **Patient Evaluation:** An appropriate history and evaluation of the patient must precede the rendering of any care, including provision of prescriptions. Not all patient situations will be appropriate for telehealth. As an example, the current standard of care is to have the patient's physical eye health assessed in some manner and within a reasonable time period before prescribing medications, contact lenses or glasses. In the case of contact lens prescriptions, it is standard of care to assess the fit of the contact lens before prescribing. Because, by definition, telehealth does not involve in-person contact between practitioner and patient, if circumstances require in-person contact, a legally appropriate surrogate examiner acceptable to the telehealth practitioner and the patient must be present, with the patient, to provide necessary in-person observations, or the telehealth practitioner should advise the patient to be seen in-person by a practitioner. Evaluating the adequacy and significance of any surrogate examination remains the responsibility of the telehealth practitioner.

- d. **Allowable Treatment Parameters:** The telehealth practitioner may provide any treatment deemed appropriate for the patient, including prescriptions, if the evaluation performed is adequate to justify the action taken. The practitioner is responsible for knowing the limitations of the care he or she can provide, no matter how the care is delivered. Just as in a traditional setting, telehealth practitioners should recognize situations that are beyond their expertise, their ability, or the limits of available technology to adequately evaluate or manage in the existing circumstances, and refer such patients for appropriate care.

- e. **Medical Records:** Practitioners providing telehealth services must document the encounter appropriately and completely so that the record clearly, concisely and accurately reflects what occurred during the encounter in accordance with Center for Medicare and Medicaid Services documentation standards. Such records should be permanent and easily available to or on behalf of the patient and other practitioners in accordance with patient consent, direction and applicable standards. Practitioners should maintain security and confidentiality of the medical record in compliance with applicable laws and regulations related to the maintenance and transmission of such records.

- f. **Prescriptions:** Prescribing medications, whether in person or via telehealth, is at the professional discretion of the practitioner. The practitioner, in accordance with current standards of practice, must evaluate the indications, appropriateness, and safety considerations for each telehealth prescription. Telehealth prescriptions entail the same

professional accountability as prescriptions incident to an in-person contact. Where appropriate clinical procedures and considerations are applied and documented, practitioners may exercise their judgment and prescribe medications as part of telehealth. Especially careful consideration should apply before prescribing Drug Enforcement Administration-controlled substances, and compliance with all laws and regulations pertaining to such prescriptions is expected. Measures to ensure informed, accurate and error-free prescribing practices (e.g. integration with e-Prescription services) are encouraged.

- 3. Mobile Medical Technology:** Mobile medical technologies provide innovative ways to improve health delivery by allowing patients and health care practitioners access to useful information when and where they need it. The federal Food and Drug Administration (FDA) regulates the safety and efficacy of medical devices, including mobile medical applications (apps) that meet the definition of “device” under the FDA Act, particularly apps that pose a higher risk if they do not work as intended.

The Board has no jurisdiction over mobile medical apps, peripherals or other devices, and will refer complaints to the FDA or other appropriate agency.² The Board advises practitioners who use or rely upon such technology to ensure the technology has received FDA approval and is in compliance with applicable federal law. Additionally, those apps used by a practitioner or patient that do not have FDA approval may be outside the standard of care, and may be investigated by the consumer protection division of the Federal Trade Commission (FTC).³ If the Board receives complaints about such apps or devices that are deemed outside its jurisdiction, the Board will forward the complaint to the FDA or the FTC as appropriate.

- 4. Discipline:** The Board may investigate and take disciplinary action against a practitioner, whether licensed in Washington or not, who treats a resident of Washington via telehealth, and who fails to meet the required standard of care. An out-of-state practitioner is also subject to action by the Department of Health for the unlicensed practice of a profession under RCW 18.130.190.

The Board reaffirms its position that establishing a telehealth presence accessible to Washington patients through a website or other access portal is not exempt from Washington licensure.

² For more information on the FDA’s regulation of mobile medical apps, see <https://www.fda.gov/MedicalDevices/DigitalHealth/MobileMedicalApplications/ucm255978.htm>. The Federal Trade Commission protects consumers from anticompetitive, deceptive or unfair business practices, including false or misleading claims about the safety or performance of a mobile medical app. <https://www.ftc.gov/tips-advice/business-center/guidance/mobile-health-apps-interactive-tool>. The Office for Civil Rights within the U.S. Department of Health and Human Services enforces the HIPAA rules, which protect the privacy and security of certain health information. <https://www.hhs.gov/hipaa/index.html>

³ <https://www.ftccomplaintassistant.gov/#cmt&panel1-1>