

TELEMEDICINE GUIDANCE

Adopted: 2/16/2021

OPTOMETRY SCOPE OF PRACTICE

In Minnesota, the practice of optometry is defined in [Minnesota Statute 145.711 to 145.7131, 148.52 to 148.62 and Minnesota Rules Chapter 6500](#). These regulations are intentionally broad in definition and do not specifically denote individual or emerging procedures. The Board's mission is public safety, and it applies all existing statutes and rules for consumer safety while assuring a successful telemedicine outcome.

This guidance document is intended to offer some perspective for both providers and patients with regard to telemedicine and the practice of optometry.

For its purposes, the Board considers “telemedicine” to be the interaction between a licensed optometrist in one physical location and the optometrist's patient located in a different physical location, accomplished via audio-visual link, imaging via static, dynamic, augmented or virtual technology, telephone, or other appropriate forms of electronic communication and/or technology used to allow or assist the optometrist in providing care to the patient. Accordingly, telemedicine in the field of optometry, if employed in the appropriate manner and circumstances, can provide significant benefits, among them increased patient access to health care, increased availability of patient records, and reduced costs and travel time. However, in order to fulfill its mandate to protect the citizens of this State, the Board also must consider patient safety and wellbeing in interpreting statutes and policies historically intended to apply to in-person provision of optometric care and applying those statutes and policies to any new delivery model, including emerging telemedicine technologies.

The Board believes that telemedicine is a tool and not a separate field of optometry, nor does telemedicine alter the scope of practice of Minnesota-licensed optometrists. Accordingly, the Board cautions those licensed providers subject to its jurisdiction and control that there is no separate or different scope of practice or standard of care applicable to those who practice optometry via telemedicine within this state or to those optometrists located outside Minnesota who diagnose and treat via telemedicine patients located within this state. A failure to conform to the appropriate standard of care, whether that care is rendered in person or via telemedicine, may subject the licensee to investigation and discipline by the Board.

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TELEMEDICINE – PROVIDER AND PATIENT ESTABLISHED RELATIONSHIP

The establishment of the optometrist and patient relationship is the same whether face to face or in a telemedicine environment. This guidance document believes in the evolution of telemedicine as a new tool to be improved upon while assuring existing standards of care are met. Minnesota Statute 145.713 Subd. 4(3) defines establishment of a provider-patient relationship through an examination.

Subd. 4. **Provider-patient relationship required.**

(3) "provider" means an optometrist or physician.

(b) For the purposes of a provider prescribing ophthalmic goods to a patient, the provider must establish a provider-patient relationship through an examination pursuant to paragraph (c).

(c) An examination meets the requirements of paragraph (b) if it takes place:

(1) in person;

(2) through face-to-face, interactive, two-way, real-time communication; or

(3) through store-and-forward technologies ([MN Statute 62A.671, Subd. 8](#)) when all of the following conditions are met:

(i) the provider obtains an updated medical history and makes a diagnosis at the time of prescribing;

(ii) the provider conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition;

(iii) the ophthalmic prescription is not determined solely by use of an online questionnaire;

(iv) the provider is licensed and authorized to issue an ophthalmic prescription in the state; and

(v) upon request, the provider provides patient records in a timely manner in accordance with state and federal requirements.

RELEVANT MINNESOTA TELEMEDICINE STATUTES

[62A.671 Telemedicine Definitions](#)

[62A.672 Coverage of Telemedicine Services](#)

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BEST PRACTICES FOR OPTOMETRIC TELEMEDICINE

As noted, the practice of optometry is defined by Minnesota Statute and created, reviewed and modified by Minnesota's elected representatives. The mission of the Board of Optometry is to protect the public through effective licensure and enforcement of the statutes and rules governing the practice of optometry and to reasonably ensure a standard of competent and ethical practice.

Telemedicine is a rapidly developing area of health care which offers new opportunities for enhancing the patient-doctor relationship. As the patient-doctor relationship is the foundation to good health care the Board advises both the public and optometrists to be mindful of statutory requirements and challenges inherent when utilizing the emerging technology of telemedicine.

As guidance for both the public and the optometrist the Board has collated the following best practices in optometric telemedicine from multiple states. This information is presented only to enhance the patient-doctor telemedicine experience and shall not be interpreted as a ruling, opinion or finding of the Minnesota Board of Optometry.

1. **Patient – Optometrist Relationship:** An optometrist who provides comprehensive eyecare via telemedicine to a patient who is not physically present at the same location as the optometrist must ensure that an appropriate optometrist-patient relationship is established prior to diagnosing or treating the patient.
 - a. Establishing an appropriate optometrist-patient relationship is best accomplished through the optometrist having at least one in-person encounter with the patient at the optometrist's established office location before engaging in the practice of telemedicine. If this in-person initial encounter is not possible, the optometrist must take the time and effort, and use means and methods appropriate under the circumstances, to gain the necessary understanding of the patient and the patient's history, condition, and needs in order to render a diagnosis and treatment plan that is consistent with the standard of care.
 - b. The Optometrist must provide comprehensive care to the patient, not just screen the patient for presence or absence of abnormal conditions or pathology of the eye. As such, the optometrist becomes the patient's primary eyecare provider and manages the patient consistent with the optometrist's training and licensure. Before entering into or continuing a telemedicine relationship, the optometrist must assess whether he or she will be able to provide comprehensive eyecare and maintain the same standard of care utilizing telemedicine as would be provided if the optometrist's services were to be provided in-person.
 - c. The optometrist must verify the patient's identity to avoid HIPAA and related patient confidentiality issues. In addition, the optometrist must ensure the data telecommunications network has the appropriate level of security so that the patient's confidential information is protected.

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- d. The optometrist must obtain or review all aspects of the patient's medical history and any available medical records.
 - e. The optometrist must:
 - i. disclose his/her identity and credentials, including informing the patient that the optometrist is licensed to practice in the jurisdiction in which the patient is located.
 - ii. provide the patient the optometrist's direct contact information so the optometrist examining the patient is accessible for urgent or emergent issues that arise outside normal business hours; this may be accomplished by providing the optometrist's cell phone number, pager number, or personal answering service number.
 - iii. maintain in the optometrist's patient records an acknowledgment signed and dated by the patient, indicating that the optometrist has provided to the patient, in written form:
 - 1. an appropriate summary of the risks and benefits of being treated by telemedicine; and,
 - 2. the contact information required by subparagraph ii. above.
 - f. Place the welfare of the patient first; protect patient confidentiality; maintain acceptable standards of practice; and properly supervise and oversee any technicians participating in the telemedicine process, thus maintaining appropriate control over the practice.
2. **Examination, evaluation, and diagnosis:** the optometrist must conduct an appropriate evaluation prior to diagnosing or treating the patient, including prior to rendering a prescription for pharmaceuticals, glasses, or contact lenses. Physical remoteness of the patient does not change the need for a proper patient identification, appropriate intake procedures, adequate patient history, examination, and, where indicated, testing. An optometrist is not excused from performing an appropriate examination, evaluation, and assessment of the patient's condition by virtue of the patient's physical remoteness from the optometrist. Any technician involved in the telemedicine patient encounter must be trained in the use of all equipment utilized in the telemedicine encounter and competent in the operation of such equipment.
3. **Patient records:** the optometrist treating via telemedicine must create and maintain a complete record of the patient's intake, diagnosis, and treatment, no different than for an in-person patient encounter. The optometrist must have access to those records at all times so that the optometrist can address and communicate with the patient any issue the patient brings to the optometrist's attention. Maintaining these records electronically so they can be accessed from any of the optometrist's practice locations and after normal business hours meets the standard of care.

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4. **Prescribing:** Prior to prescribing any medication or ophthalmic device (such as glasses or contact lenses), the optometrist should conduct an appropriate assessment of the ocular health and visual status of the patient. The standard of care as currently recognized by Minnesota Board of Optometry, does not permit an examination consisting solely of objective refractive data or information generated by an automated testing device such as an autorefractor in order to establish a medical diagnosis or to establish refractive error. Likewise, issuing a prescription based solely on a patient's responses to a written or online questionnaire does not meet the standard of care. Optometrists prescribing controlled substances via telemedicine also should obey all other relevant state and federal laws and regulations.
5. **Where the practice of optometry occurs:** The State of Minnesota considers that the practice of optometry occurs both where the patient is located (originating site) and where the optometrist providing professional services is located (distance site). In order for an optometrist to provide professional optometric services to a person located in Minnesota that optometrist must be licensed by the Minnesota Board of Optometry.
6. **Laws and regulations governing the practice of optometry:** As indicated previously, there is not a separate standard of care for telemedicine in the practice of optometry in Minnesota. Accordingly, the optometrist who seeks to use telemedicine in their practice should be familiar with the requirements of the Minnesota Laws and Statutes and all other applicable laws and regulations, whether state or federal. *Minnesota licensed providers should be aware that the Minnesota Board of Optometry can only provide direction to current statute and rules, and cannot provide legal advice.*
7. **Other licensing bodies may also have oversight:** Minnesota licensees who wish to treat patients located outside Minnesota by utilizing telemedicine should know both that the Minnesota Board of Optometry has oversight of such practice and that the "Originating Site" state's board of optometry may take the position that such constitutes the practice of optometry in their respective states, and accordingly such boards also may require licensure in their state as a prerequisite. Optometrists intending to practice in such manner should therefore seek guidance from the optometry boards in all states in which they intend to treat patients for those states' licensure requirements to determine whether or not such practice is permitted in those jurisdictions.
8. **Displaying license and current certificate of renewal: branch office licenses:** The licensee must display their license and current certificate of renewal in a conspicuous place in the optometrist's office. A licensee who practices in more than one office location must obtain a duplicate license for each such branch office, with such branch office licenses to be displayed in like manner. For telemedicine encounters, providers should display their license at the "originating site" or include licensing information along with patient onboarding materials. Providers may also consider displaying other materials commonly found in a traditional office setting such as an image of the provider (head shot), biographical information, and other certificates at an "originating site". Consumers should be aware that all current Minnesota Licensed Optometrists can be validated through the ["License Lookup"](#) feature on the Minnesota Board of Optometry website.