

Telemedicine and Patient Protection

Robert Ward, MD, Chairman



The Report

The advancement of medical and communications technology has had a profound impact on the practice of medicine. Telemedicine is the practice of medicine using electronic communications or information technology to facilitate interaction between a practitioner in one location and a patient in another location. Telemedicine has many potential benefits including increasing access to healthcare especially in underserved areas, expanding utilization of specialty expertise, making availability of patient records easier and potentially decreasing medical costs.

State medical boards who are primarily responsible for protecting the public face complex regulatory challenges and patient safety concerns in adapting regulations and standards historically intended for traditional medical care to new evolving delivery models with telemedicine technologies. to help regulate this rapidly evolving field.

Thanks to a task force comprised of representatives from the Governor's office,

the Idaho state legislature, the Idaho State Board of Medicine, the Idaho Medical Association, and input from the Federation of State Medical Licensing Boards the telemedicine act was passed establishing a framework to help regulate this rapidly evolving field.

The overriding tenant is to place the welfare of the patient first. With this in mind. There are several key guidelines.

1. A physician must be licensed in the state where the patient is located by the state Board of medicine in that location. It is important to view the practice of medicine as occurring in the location of the patient in order that the full resources of the state would be available for the protection of that patient. The same standard of care, already in existence in the patient's home state, would be required of all individuals practicing medicine within any jurisdiction, whether or not they were physically located outside of the state

The agency best able to ensure the maintenance of such standards in

the protection of the patient is the medical Board in the state of the patient's residence.

2. A physician-patient relationship must be established similar to any traditional physician-patient relationship. The physician-patient relationship is fundamental to the provision of quality medical care. It is the expectation of the Idaho board that physicians recognize the obligations, responsibilities, and patient rights associated with establishing and maintaining a physician-patient relationship. A documented medical evaluation and collection of relevant clinical history commensurate with the presentation of the patient to establish diagnosis and identify underlying conditions and/or contraindications to the treatment recommended must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise.

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Special points of interest:

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CME for reading current policies –Page 2

Recommendations and treatment made in an online setting will be held to the same standards of appropriate practice as those in traditional settings. Treatment, including issuing a prescription based solely on an online questionnaire does not constitute as an acceptable standard of care.

3. Medical records should be kept and maintained under the same rules and regulations, governing all patient records including patient confidentiality requirements. Medical records should include, if applicable, copies of all patient-related electronic communications including prescriptions, laboratory and test results, and consultations as well as records of past care. Informed consents obtained in connection with an encounter involving telemedicine technologies should also be filed in the medical record. The records must be readily accessible for both the physician and the patient consistent with all established laws and regulations, governing patient healthcare records. Telemedicine records should meet or exceed applicable federal and state legal requirements of medical/health information privacy including compliance with HIPAA and state privacy, confidentiality, and security regulations.

The rules regarding telemedicine are to ensure the continued safety and protection of all the patients in Idaho, regardless of how care is accessed.

Thinking of leaving or returning to clinical practice



Physician Reentry 101 webinar provides overview of reentry to workforce resources

The [Physician Reentry into the Workforce Project](#) has created a webinar, "Physician Reentry 101," to provide physicians and others interested in the issue an overview that includes what physician reentry is, key resources, data and other information. [View the Physician Reentry 101 Webinar.](#)

Information on re-entry requirements of the Idaho Board of Medicine can be found on our website under [Physician Re-entry](#)

The Interstate Licensure Compact

Eleven states including Idaho have passed legislation to participate in the Interstate Licensure Compact. To learn more about the compact please see the [Federation of State Medical Boards website](#)

Have you read?

Have you read the Federation of State Medical Boards (FSMB) model policies on Data 2000 and the Treatment of Opioid Addiction in the Medical Office and the Use of Opioid Analgesics in the Treatment of Chronic Pain adopted by the Idaho Board of Medicine. You can obtain CME credit thanks to the FSMB for each policy by [clicking here](#)

The Board has proposed the following rule changes:

IDAPA 22.01.01– Changes to the requirements for international graduates in Idaho residency programs.

New rule IDAPA 22.01.15– Rules Relating to Telehealth Services-guidelines for providers in Idaho under the new Telehealth Access Act

A full text of the proposed rule changes are included on the following pages.

**IDAPA 22
TITLE 01
CHAPTER 01**

IDAPA 22 - BOARD OF MEDICINE

**22.01.01 - RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE
MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY IN IDAHO**

(Only those Sections being amended are shown.)

051. LICENSURE FOR GRADUATES OF INTERNATIONAL MEDICAL SCHOOLS LOCATED OUTSIDE OF THE UNITED STATES AND CANADA.

01. International Medical Graduate. In addition to meeting the requirements of Section 050, graduates of international medical schools located outside of the United States and Canada must submit to the Board: (3-26-08)

a. Original certificate from the ECFMG or original documentation that the applicant has passed the examination either administered or recognized by the ECFMG and passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed the United States Medical Licensing Exam (USMLE). (5-8-09)

b. Original documentation directly from the international medical school which establishes to the satisfaction of the Board that the international medical school meets the standards for medical educational facilities set forth in Subsection 051.02, and that both the scope and content of the applicant's coursework and performance were equivalent to those required of students of medical schools accredited by the LCME; (3-26-08)

c. Original documentation directly from the international medical school that it has not been disapproved or has its authorization, accreditation, certification or approval denied or removed by any state, country or territorial jurisdiction and that to its knowledge no state of the United States or any country or territorial jurisdiction has refused to license its graduates on the grounds that the school fails to meet reasonable standards for medical education facilities; (3-26-08)

d. A complete and original transcript from the international medical school showing successful completion of all the courses taken and grades received and original documentation of successful completion of all clinical coursework; and (3-26-08)

e. Original documentation of successful completion of three (3) years of progressive postgraduate training at one (1) training program accredited for internship, residency, or fellowship training by the ACGME, AOA or the Royal College of Physicians and Surgeons of Canada, provided however, residents who are attending an Idaho based residency program may be licensed after successful completion of two (2) years of progressive post graduate training if the following conditions are met: ()

i. The resident must have the written approval of the residency program director; ()

ii. The resident must have a signed written contract with the Idaho residency program to complete the entire residency program; ()

iii. The resident must remain in good standing at the Idaho based residency program; ()

iv. The residency program must notify the Board within thirty (30) days if there is a change in circumstances or affiliation with the program (for example, if the resident resigns or does not demonstrate continued satisfactory clinical progress); and ()

v. The Idaho residency program and the Idaho Board have prescreened the applicant to ensure that they have received their MD or DO degree from an approved school that is eligible for Idaho licensure after graduation. ()

f. ECFMG. The certificate from the ECFMG is not required if the applicant holds a license to practice medicine which was issued prior to 1958 in one (1) of the states of the United States and which was obtained by written examination.(3-26-08)

IDAPA 22
TITLE 01
CHAPTER 15

IDAPA 22 BOARD OF MEDICINE

22.01.15 - RULES RELATING TO TELEHEALTH SERVICES

000. LEGAL AUTHORITY. Pursuant to Section 54-5613 and Section 54-1806(2), Idaho Code, the Idaho State Board of Medicine (Board) is authorized to promulgate rules relating to telehealth services. ()

001. TITLE AND SCOPE. These rules shall be cited as IDAPA 22.01.15, "Rules Relating to Telehealth Services." ()

002. WRITTEN INTERPRETATIONS. Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking process in the adoption of these rules are available for review and copying at cost from the Board, 1755 Westgate Drive, Suite 140, Box 83720 Boise, Idaho 83720-0058. ()

003. ADMINISTRATIVE APPEAL. All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" and this chapter. ()

004. PUBLIC RECORD ACT COMPLIANCE. These rules have been promulgated according to the provisions of Title 67, Chapter 52, Idaho Code, and are public records. ()

005. INCORPORATION BY REFERENCE. The Idaho Telehealth Access Act, Chapter 56, Title 54, Idaho Code is incorporated by reference into these rules. ()

006. OFFICE -- OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS. The central office of the Board shall be in Boise, Idaho. The Board's mailing address, unless otherwise indicated, shall be Idaho State Board of Medicine, Statehouse Mail, Boise, Idaho 83720. The Board's street address is 1755 Westgate Drive, Suite 140, Boise, Idaho 83704. The telephone number of the Board is (208) 327-7000. The Board's facsimile (FAX) number is (208) 327-7005. The Board's website is www.bom.idaho.gov. The Board's office hours for filing documents are 8:00 a.m. to 5:00 p.m. MST. ()

007. FILING OF DOCUMENTS -- NUMBER OF COPIES. All documents in rulemaking or contested case proceedings must be filed with the office of the Board. The original and one (1) electronic copy of all documents must be filed with the office of the Board. ()

008. -- 009. (RESERVED)

010. DEFINITIONS.

.01 "Board" means the Idaho State Board of Medicine. ()

.02 The other definitions applicable to these rules are those definitions set forth in the Idaho Telehealth Access Act and in Idaho Code Section 54-5603. ()

011. IDAHO LICENSE REQUIRED. Any physician, physician's assistant, respiratory therapist, polysomnographer, dietician or athletic trainer who provides any telehealth services to patients located in Idaho must hold an active Idaho license issued by the Idaho State Board of Medicine for their applicable practice. ()

012. PROVIDER-PATIENT RELATIONSHIP. In addition to the requirements set forth in Idaho Code Section 54-5605, during the first contact with the patient, a provider licensed by the Idaho State Board of Medicine who is providing telehealth services shall: (_____)

01. Verify the location and identity of the patient; (_____)

02. Disclose to the patient the provider's identity, their current location and telephone number and Idaho license number; (_____)

03. Obtain appropriate consents from the patient after disclosures regarding the delivery models and treatment methods or limitations, including a special informed consent regarding the use of telehealth technologies; and (_____)

04. Allow the patient an opportunity to select their provider rather than being assigned a provider at random to the extent possible. (_____)

013. STANDARD OF CARE. A provider providing telehealth services to patients located in Idaho must comply with the applicable Idaho community standard of care. The provider shall be personally responsible to familiarize themselves with the applicable Idaho community standard of care. If a patient's presenting symptoms and conditions require a physical examination, lab work or imaging studies in order to make a diagnosis, the provider shall not provide diagnosis or treatment through telehealth services unless or until such information is obtained. (_____)

014. INFORMED CONSENT. In addition to the requirements of Idaho Code Section 54-5608, evidence documenting appropriate patient informed consent for the use of telehealth technologies must be obtained and maintained at regular intervals consistent with the community standard of care. Appropriate informed consent should, at a minimum, include the following terms: (_____)

01. Identification of the patient, the provider and the provider's credentials; (_____)

02. Agreement of the patient that the provider will determine whether or not the condition being diagnosed and/or treated is appropriate for telehealth services; (_____)

03. Information on the security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy and notwithstanding such measures; (_____)

04. Disclosure that information may be lost due to technical failures. (_____)

015. MEDICAL RECORDS. As required by Idaho Code §54-5611, any provider providing telehealth services as part of his or her practice shall generate and maintain medical records for each patient. The medical record should include, copies of all patient-related electronic communications, including patient-physician communications, prescriptions, laboratory and test results, evaluations and consultations, relevant information of past care, and instructions obtained or produced in connection with the utilization of telehealth technologies. Informed consents obtained in connection with the provision of telehealth services should also be documented in the medical record. The patient record established during the provision of telehealth services must be accessible and documented for both the physician and the patient, consistent with all established laws and regulations governing patient healthcare records. (_____)

Board Actions

BOARD ACTIONS

PLEASE NOTE

Some physicians have similar names, please verify information by license number on our [web site](#). Details of the action are available on the web site.

Explanation of terms:

- Stipulation: an agreement, admission, or concession.
- Stipulation and Order: an agreement between the Board and the practitioner regarding authorization to practice or placing terms or conditions on the authorization to practice.
- Suspension: temporary withdrawal of authorization to practice.
- Reprimand: a formal admonishment of conduct or practice.
- Revocation: cancellation of the authorization to practice.

John Lundeby, MD
M-6914 Spokane, WA
Board Action-Reprimand falsifying application

James Oury, MD
M-12469 Rapid City, SD
Board Action-Reciprocal Discipline falsifying application

Kelley Supple, MD
M-10134 Arlington, WA
Board Action-Reciprocal Discipline , license surrender.

Kenneth Broadbent LD
D-879 Orofino , ID
Board Action- Stipulation and Order

John Garner, MD
M-5636 Boise, ID
Board Action- Reprimand , failure to respond to Board

John Fenstermaker, DO
O-0623 Pocatello
Board Action- Stipulation and Order for boundaries

Lorene Lindley, MD
M-9191 Coeur d'Alene,, ID
Board Action- Stipulation and Order modified inappropriate prescribing

Olurotimi Ashaye, MD
M-8639 Meridian, ID
Board Action-Stipulation and Order inappropriate prescribing

Richard Hill, MD
M-4478 Blackfoot, ID
Board Action- Stipulation and Order for inappropriate prescribing.



IDAHO STATE BOARD OF MEDICINE

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*Public Protection through fair and impartial
application and enforcement of practice acts*

**Visit our Website at:
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