

**IDAPA 22
TITLE 01
CHAPTER 15**

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, a provider licensed by the Idaho State Board of Medicine who is providing telehealth services shall: ()

01. Fully verify and authenticate the location and identity of the patient; ()

02. Disclose and validate the provider's identity, address 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 telemedicine technologies; and ()

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

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 to make a diagnosis, the provider shall not provide telehealth services unless or until such information is obtained. ()

014. INFORMED CONSENT. Evidence documenting appropriate patient informed consent for the use of telemedicine technologies must be obtained and maintained. Appropriate informed consent should, at a minimum, include the following terms: ()

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

02. Types of transmissions permitted using telemedicine technologies (e.g. () prescription refills, appointment scheduling, patient education, etc.);

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

- 04. Details on security measures taken with the use of telemedicine 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 notwithstanding such measures; ()
- 05. Hold harmless clause for information lost due to technical failures; and ()
- 06. Requirement for express patient consent to forward patient-identifiable information to a third party. ()

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 must include, copies of all patient-related electronic communications, including patient-physician communications, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions obtained or produced in connection with the utilization of telemedicine technologies. Informed consents obtained in connection with an encounter involving 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. ()