

# Telehealth and Prescribing Controlled Substances

By: Nicole Dube, Principal Analyst  
June 5, 2018 | 2018-R-0128

## Issue

This report answers a series of questions on Connecticut's telehealth law, including recent legislative changes that allow the prescribing of certain controlled substances using telecommunication technology. It updates report [OLR 2017-R-0174](#).

## 1. What is Telehealth?

Generally, telehealth (also commonly referred to as “telemedicine”) is a method for delivering health care services in which a health care provider uses telecommunication technology to provide health care services to a patient at a different geographic location. The law defines “telehealth” more precisely as delivering health care services through information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s physical and mental health. Under that law, telehealth practices include:

1. interactions between a patient at an originating site and the telehealth provider at a distant site and
2. synchronous (real-time) interactions, synchronous store and forward transfers (transmitting medical information from the patient to the telehealth provider for review at a later time), or remote patient monitoring.



Telehealth does not include using fax, audio-only telephone, texting, or email ([CGS § 19a-906\(a\)\(10\)](#)).

## 2. Which Providers May Use Telehealth to Provide Health Care Services?

Under the law, the following health care providers may provide health care services using telehealth technology within their profession’s scope of practice and standard of care ([CGS § 19a-906\(a\)\(11\)](#), as amended by [PA 18-148](#)).

<ul style="list-style-type: none"> <li>Advanced Practice Registered Nurses</li> </ul>	<ul style="list-style-type: none"> <li>Clinical and Master Social Workers</li> </ul>	<ul style="list-style-type: none"> <li>Pharmacists</li> </ul>	<ul style="list-style-type: none"> <li>Psychologists</li> </ul>
<ul style="list-style-type: none"> <li>Alcohol and Drug Counselors</li> </ul>	<ul style="list-style-type: none"> <li>Marital and Family Therapists</li> </ul>	<ul style="list-style-type: none"> <li>Physicians</li> </ul>	<ul style="list-style-type: none"> <li>Registered Nurses</li> </ul>
<ul style="list-style-type: none"> <li>Audiologists</li> </ul>	<ul style="list-style-type: none"> <li>Naturopaths</li> </ul>	<ul style="list-style-type: none"> <li>Physician Assistants</li> </ul>	<ul style="list-style-type: none"> <li>Respiratory Care Practitioners</li> </ul>
<ul style="list-style-type: none"> <li>Certified Dietician-Nutritionists</li> </ul>	<ul style="list-style-type: none"> <li>Occupational or Physical Therapists</li> </ul>	<ul style="list-style-type: none"> <li>Podiatrists</li> </ul>	<ul style="list-style-type: none"> <li>Speech and Language Pathologists</li> </ul>
<ul style="list-style-type: none"> <li>Chiropractors</li> </ul>	<ul style="list-style-type: none"> <li>Optometrists</li> </ul>	<ul style="list-style-type: none"> <li>Professional Counselors</li> </ul>	

## 3. Are There Requirements for Providing Telehealth Services?

Under the law, a telehealth provider can provide telehealth services to a patient only when the provider:

1. is communicating through real-time, interactive, two-way communication technology or store and forward technologies;
2. has access to, or knowledge of, the patient’s medical history and health record;
3. conforms to the standard of care (a) for his or her profession and (b) expected for in-person care as appropriate for the patient’s age and presenting condition; and
4. gives the patient his or her provider license number and contact information ([CGS § 19a-906\(b\)\(1\)](#)).

At a first telehealth interaction with a patient, the provider must (1) inform the patient about telehealth treatment methods and limitations, (2) obtain the patient’s consent to provide telehealth services, and (3) document the notice and consent in the patient’s health record. If the patient later revokes his or her consent, the telehealth provider must document it in the patient’s medical record ([CGS § 19a-906\(b\)\(2\)](#)), as amended by [PA 18-148](#)).

Additionally, the law requires a telehealth provider, at the first telehealth interaction with a patient, to ask for the patient’s consent to disclose telehealth records to his or her primary care provider. If the patient consents, the telehealth provider must give the primary care provider records of all telehealth interactions ([CGS § 19a-906\(d\)](#)), as amended by [PA 18-148](#)).

By law, consent for providing telehealth services or disclosing records may be obtained from the patient or the patient’s legal guardian, conservator, or other authorized representative ([CGS § 19a-906\(e\)](#)), as amended by [PA 18-148](#)).

#### **4. Can Health Care Providers Prescribe Controlled Substances Using Telehealth Technology?**

Previously, telehealth providers who are authorized to prescribe controlled substances were prohibited from prescribing schedule I, II, or III controlled substances using telehealth. But, starting July 1, 2018, a new law allows such providers to prescribe a non-opioid Schedule II or III controlled substance using telehealth to treat a psychiatric disability or substance use disorder, including medication-assisted treatment (MAT). The law defines MAT as the use of federal Food and Drug Administration-approved medication in combination with counseling and behavioral therapies to provide a whole-patient approach to treating substance use disorders ([CGS § 19a-906\(c\)](#)), as amended by [PA 18-148](#)).

Under the new law, providers may only do this (1) in a manner consistent with the federal Ryan Haight Online Pharmacy Consumer Protection Act (“Haight Act,” see sidebar) and (2) if they submit the prescription electronically in accordance with state law.

##### ***Ryan Haight Online Pharmacy Consumer Protection Act***

*The 2008 Haight Act established standards for dispensing and prescribing controlled substances via the internet (e.g., online pharmacies and telehealth).*

*Among other things, the act prohibits dispensing controlled substances via the internet without a valid prescription. For a prescription to be valid, it must be issued for a legitimate medical purpose in the usual course of a health care provider’s professional practice.*

*It requires providers to conduct at least one medical evaluation before prescribing a person a controlled substance in-person or, if specified conditions are met, via telehealth. The federal Drug Enforcement Agency enforces the act’s provisions.*

Generally, schedule I, II, and III controlled substances have a higher potential for abuse. Examples include opioid painkillers (Schedule II), amphetamines (Schedule II), methamphetamines (Schedule II), anabolic steroids (Schedule III), and marijuana (Schedule I).

Telehealth providers may use telehealth to prescribe schedule IV and V controlled substances, which have a low potential for abuse. Examples include diazepam (Valium), lorazepam (Ativan), alprazolam (Xanax), and clonazepam (Klonopin).

## **5. Are Health Insurers Required to Cover Telehealth Services?**

Generally, the law requires health insurance policies to cover medical advice, diagnosis, care, or treatment provided through telehealth technology to the extent that they cover the services through in-person visits between an insured person and a health care provider. It subjects telehealth coverage to the same terms and conditions that apply to other benefits under the policy ([CGS §§ 38a-499a](#) and [38a-526a](#)).

ND:cmg