



# Can I Prescribe to Patients via Telehealth?

## Telehealth & Telemedicine Crash Course

July 25, 2017

This presentation has been provided for informational purposes only and is not intended and should not be construed to constitute legal advice. Please consult your attorneys in connection with any fact-specific situation under federal, state, and/or local laws that may impose additional obligations on you and your company.

Cisco WebEx can be used to record webinars/briefings. By participating in this webinar/briefing, you agree that your communications may be monitored or recorded at any time during the webinar/briefing.

## Attorney Advertising

# Presented by

---



**Theresa E. Thompson**

Associate

[tthompson@ebglaw.com](mailto:tthompson@ebglaw.com)

Tel: 202-861-1877

# Agenda



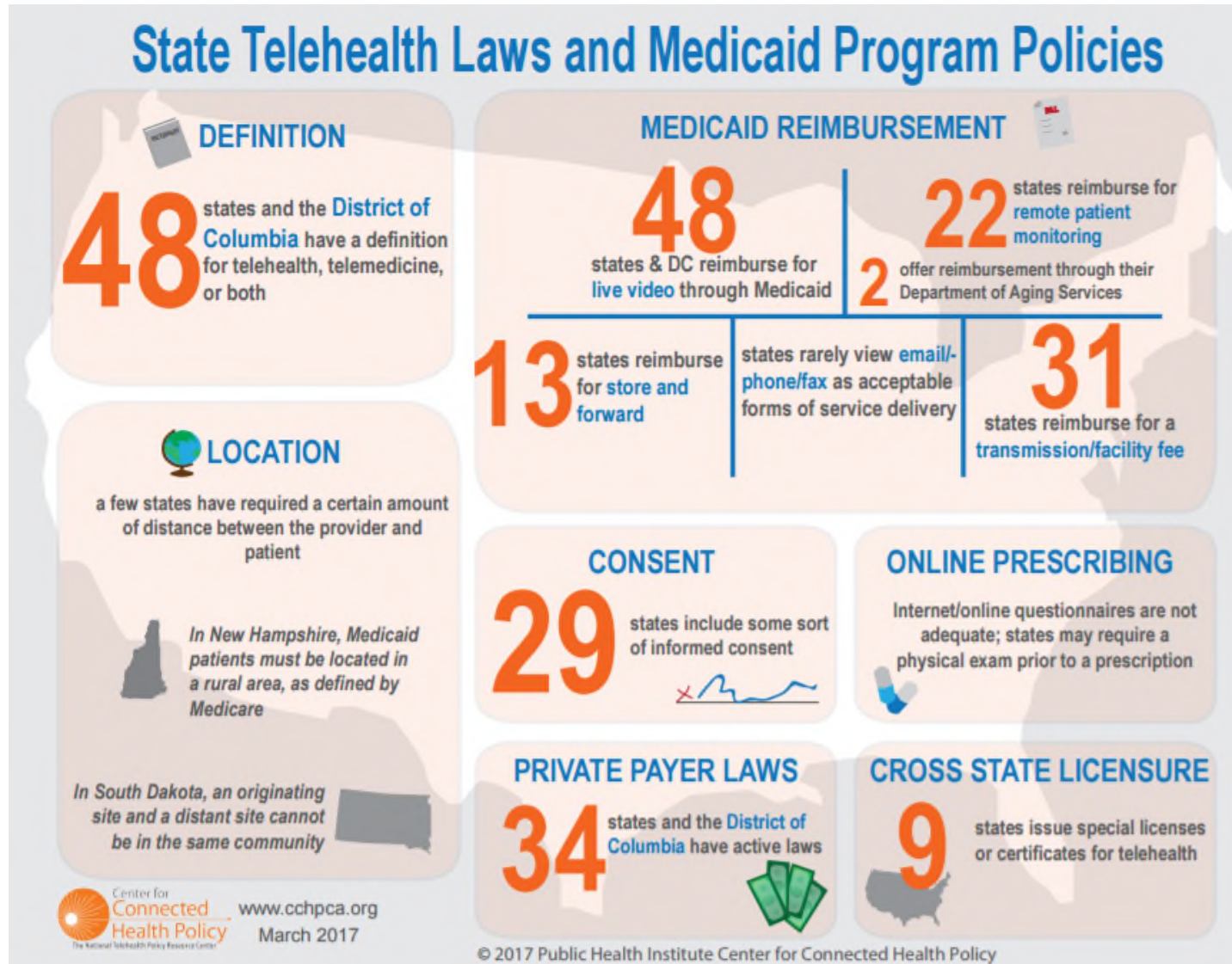
1. Do I need a special license to prescribe via telehealth?

2. Is it within my scope of practice to remote prescribe?

3. What are the criteria for establishing a practitioner-patient relationship?

4. What drugs and substances can be prescribed remotely?

# Regulation of Telehealth Services



# Do I need a special license to prescribe via telehealth?



## States

- Most states require licensure within the state where the patient is located
- Some states offer licensure through compact
- An additional, special license generally is not required to remote prescribe

## Federal

- The Ryan Haight Online Pharmacy Consumer Protection Act of 2008 includes a process for creating a special telemedicine registration
- No such registration has been made available yet
- Only applies to prescription of controlled substances

# Is it within my scope of practice to remote prescribe?

---



Physician v.  
Practitioner

APRNs &  
PAs?

The Role of  
Compacts

# What are the criteria for establishing a practitioner-patient relationship?



In-person  
Physical  
Examination

Physical  
Examination  
(Not defined)

Examination  
by “Other  
Means”

**Arkansas**

“professional relationship” requires an “in-person physical examination”

**New Jersey**

“Perform an appropriate history and physical examination”

**South Carolina**

“evaluation need not be in-person if the licensee employs technology sufficient to accurately diagnose and treat”



# What are the criteria for establishing a practitioner-patient relationship?



Comply with the standard of care

Verify patient identity and location

Audio/visual technology – phone/online  
questionnaire insufficient

In-person exam “if medically necessary”

# What drugs and substances can be prescribed remotely?



## State Law Restrictions

- Alaska:
  - May not remote prescribe controlled substance w/o physical examination
- Texas:
  - Face-to-face or in-person “physical exam” prior to remote prescribing controlled substance or dangerous drug

## Ryan Haight Act

- Prohibits dispensing controlled substances via the internet without a “valid prescription”
- Valid prescription:
  - Issued for a legitimate medical purpose
  - Physician must conduct at least one in-person medical evaluation of a patient before remotely prescribing any controlled substances

# Questions?

---



**Theresa E. Thompson**

Associate

[tthompson@ebglaw.com](mailto:tthompson@ebglaw.com)

Tel: 202-861-1877

**Thank you.**