

18 V.S.A. § 9361. Health care providers delivering health care services through telemedicine or by store and forward means

(a) As used in this section, "distant site," "health care provider," "originating site," "store and forward," and "telemedicine" shall have the same meanings as in 8 V.S.A. § 4100k.

(b) Subject to the limitations of the license under which the individual is practicing, a health care provider licensed in this State may prescribe, dispense, or administer drugs or medical supplies, or otherwise provide treatment recommendations to a patient after having performed an appropriate examination of the patient in person, through telemedicine, or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically. Treatment recommendations made via electronic means, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional provider-patient settings.

(c)(1) A health care provider delivering health care services through telemedicine shall obtain and document a patient's oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.

(A) The informed consent for telemedicine services shall be provided in accordance with Vermont and national policies and guidelines on the appropriate use of telemedicine within the provider's profession and shall include, in language that patients can easily understand:

(i) an explanation of the opportunities and limitations of delivering health care services through telemedicine;

(ii) informing the patient of the presence of any other individual who will be participating in or observing the patient's consultation with the provider at the distant site and obtaining the patient's permission for the participation or observation; and

(iii) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

(B) For services delivered through telemedicine on an ongoing basis, the health care provider shall be required to obtain consent only at the first episode of care.

(2) The provider shall include the patient's written consent in the patient's medical record or document the patient's oral consent in the patient's medical record.

(3) A health care provider delivering telemedicine services through a contract with a third-party vendor shall comply with the provisions of this subsection (c) to the extent permissible under the terms of the contract. If the

contract requires the health care provider to use the vendor's own informed consent provisions instead of those set forth in this subsection, the health care provider shall be deemed to be in compliance with the requirements of this subsection if he or she adheres to the terms of the vendor's informed consent policies.

(4) Notwithstanding any provision of this subsection to the contrary, a health care provider shall not be required to obtain a patient's informed consent for the use of telemedicine in the following circumstances:

(A) in the case of a medical emergency;

(B) for the second certification of an emergency examination determining whether an individual is a person in need of treatment pursuant to section 7508 of this title; or

(C) for a psychiatrist's examination to determine whether an individual is in need of inpatient hospitalization pursuant to 13 V.S.A. § 4815(g)(3).

(d) Neither a health care provider nor a patient shall create or cause to be created a recording of a provider's telemedicine consultation with a patient.

(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time following the patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means shall not preclude a patient from receiving real time telemedicine or face-to-face services with the distant site health care provider at a future date. Originating site health care providers involved in the store and forward process shall obtain informed consent from the patient as described in subsection (c) of this section. (Added 2011, No. 107 (Adj. Sess.), § 4, eff. May 8, 2012; amended 2017, No. 64, § 2, eff. Oct. 1, 2017.)