

Breaking Down Telehealth Informed Consent during COVID-19

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Several states require telehealth providers to obtain written or verbal consent from the patient prior to delivering the telehealth service. The consent for telemedicine can vary as follows:

- 1) Requiring the standard patient consent to be seen without any additional language about telemedicine
- 2) The standard consent including additional telemedicine language
- 3) A separate informed consent for telemedicine, often in addition to the standard patient consent

Your state may have specific policies on what provider types can get the informed consent, especially with behavioral health and what items the informed consent must include.

Informed Consent in Your State

To find out specifics for your state, [facilities can consult the Center for Connected Health Policy \(CCHP\)](#) or your regional Telehealth Resource Center to provide overviews of current state policies. Under professional requirements on the CCHP site, Wyoming has additional consent requirements (see links to the right), but Alaska, Hawaii and Montana do not.

Wyoming Consent Requirements

- [Medicaid Telehealth Consent Form](#)
- [Wyoming Healthcare Licensing Boards' Uniform Policy for the Appropriate Use of Telehealth Technologies in the Delivery of Healthcare](#)

Even if federal and certain states do not have specific rules on informed consent for telemedicine, you should obtain and document the patient's informed consent for telehealth services. For example, you can add to your facilities Annual Patient Agreement: "I agree to the use of telehealth and/or remote video consultations and treatment."

Other Important Informed Consent Pieces

To be truly informed, the provider should also explain the risks and benefits associated with providing care via telehealth along with any other information reasonably necessary to attain effective consent. This not only informs and protects the patient, but also could protect the provider from the risk of facing consent-based negligence claims. Consent often requires a written form, which needs to be signed by the patient and/or oral acknowledgement noted in the patient's record.

On March 27, 2020, the [Centers for Medicare & Medicaid Services \(CMS\) published a telehealth fact sheet](#) stating patients must verbally consent to receive virtual check-in services.

Due to the shifting landscape we are facing with the COVID-19 pandemic, we recommend periodically checking the status of federal and your state's current laws and Medicaid policies on informed consent for telemedicine.