

Acute Care Hospital
Consent Requirements for Telehealth Services

Policy: It is the policy of [Organization name here] to ensure consent for telehealth services is obtained from qualified beneficiaries in a HIPAA-compliant environment.

Purpose: To explain consent for the provision of telehealth services, from a Medicare Rules and Regulations perspective.

Scope: This document is applicable for acute care hospitals (ACH), in accordance with the rules and regulations of the Centers for Medicare & Medicaid Services (CMS). Each organization should check their state regulations for further requirements and opportunities.

*Temporary PHE Guidance**

"Individual services need to be agreed to by the patient; however, practitioners may educate beneficiaries on the availability of the service prior to patient agreement."

For further reading:

<https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>

During the PHE, beneficiary consent may be obtained at the same time the services are furnished.

For further reading:

<https://edit.cms.gov/files/document/medicare-telehealth-frequently-asked-questions-faqs-31720.pdf>

*Temporary guidance related to Public Health Emergency (PHE)

Procedures:

I. Obtain Consent for a Virtual-Type Consult.

- A. Inform the patient that any consent to treat was signed when they were admitted to the hospital and this consent will apply to telehealth services.

This document is provided by gpTRAC as a sample/template only. This should be edited in order to meet your organization's specific needs and requirements.

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- B. Although consent was obtained when the patient was admitted to the hospital, still verify verbally at the beginning of each consultation that the patient consents to the telehealth service.
- C. If there is anyone observing the consultation, tell the patient and get their consent at the start.
- D. Ensure medical/intake forms used during the consultation are reviewed by the legal team and recognize that state laws vary for obtaining consent.
- E. Ask the patient if they have any questions regarding consent.
- F. Arrange for a qualified interpreter if the patient does not speak English very well. Use the interpreter for the entire consent discussion.

<https://telehealth.hhs.gov/providers/preparing-patients-for-telehealth/obtaining-informed-consent/>

II. Document Consent for a Virtual-Type Consult.

- A. Any verbal consent must be documented in the medical record before services are provided.
- B. A signed consent must be entered into the medical record (i.e., scan, etc.).
- C. If the patient did not provide consent, note it in the medical record.
- D. If recording the telehealth consultation, an additional consent must be obtained for the recording.
- E. The patient consent should not interfere with the provision of telehealth services.
- F. The patient's appropriateness must be ensured for any telehealth services.
 - 1. The patient should be in a private space during the entire duration of the telehealth consultation.
 - 2. An adequate exam, or the collection of necessary medical information from the patient, should be able to be performed.
 - 3. If there is any history of previous, or current, difficulty managing patient behavior, it must be addressed and documented in the patient's medical record.

<https://static1.squarespace.com/static/5e7a1f8890664f18b1bf2112/t/5e863262c928fc4df03f3829/1585853031656/4P+Quick+Start+Tutorial+-+Mental+Health-0402.pdf>

III. Types of Consent for a Virtual-Type Consult.

- A. A verbal consent can be used for telehealth services.
- B. An informed consent may be used for telehealth services.
 - 1. The informed consent must be explained to the patient.
 - a) Any informed consent must address services to be rendered.
 - b) The informed consent should include discussion of any anticipated results and benefits of the services to be provided.

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- c) The informed consent must discuss the risks related to the services.
- d) Any alternatives to the telehealth services should also be addressed when obtaining an informed consent.

<https://www.ahrq.gov/health-literacy/improve/informed-consent/obtain.html>

IV. Patient Education During Consent

- A. Discuss with the patient what they may expect from the telehealth consultation.
 1. Inform the patient that calls are not recorded during their telehealth consultation.
 2. Prepare the patient for the telehealth consultation. **(Refer to ACH Site Requirements policy)**

Tips:

- *If a consent is verbal, it should be included in the general consent and revisited often.*
- *Consider having the patient repeat what was talked about in the consent discussion. Use open-ended questions versus those with a yes or no response. Offer to read the consent form aloud to the patient.*

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