

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-complaint environment.
- Purpose:** To explain consent for the provision of telehealth services, from a Medicare Rules and Regulations perspective.
- Scope:** This document is applicable for critical access hospitals (CAH), 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.

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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.

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- b) The informed consent should include discussion of any anticipated results and benefits of the services to be provided.
- 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 CAH 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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