**ALABAMA STATE BOARD OF MEDICAL EXAMINERS**


(1) It is the position of the Board that prescribing drugs to an individual the prescriber has not personally examined is usually inappropriate. Before prescribing a drug, the physician should make in informed medical judgment based on the circumstances of the situation and on his or her training and experience. Ordinarily, this will require that the physician personally perform an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan, a part of which might be a prescription. This process must be documented appropriately.

(2) Prescribing for a patient whom the physician has not personally examined may be suitable under certain circumstances. These may include, but not be limited to, admission orders for a patient newly admitted to a health care facility, prescribing for a patient of another physician for whom the prescriber is taking call, or continuing medication on a short-term basis for a new patient prior to the patient’s first appointment. Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice.

(3) It is the position of the Board that prescribing drugs to individuals the physician has never met based solely on answers to a set of questions, as is common in Internet or toll-free telephone prescribing, is inappropriate and unprofessional.

**ALASKA STATE MEDICAL BOARD**


For purposes of AS 08.64.240 (b) and AS 08.64.326, “unprofessional conduct” means an act or omission by an applicant or licensee that does not conform to the generally accepted standards of practice for the profession for which the applicant seeks licensure or a permit under AS 08.64 or which the licensee is authorized to practice under AS 08.64. “Unprofessional conduct” includes the following:

(27) providing treatment, rendering a diagnosis, or prescribing medications based solely on a patient-supplied history that a physician licensed in this state received by telephone, facsimile, or electronic format.


When prescribing a drug that is a controlled substance, as defined in AS 11.71.900, an individual licensed under this chapter shall create and maintain a complete, clear, and legible written record of care that includes, at a minimum,

(1) a patient history and evaluation sufficient to support a diagnosis;
(2) a diagnosis and treatment plan for the diagnosis;
(3) monitoring the patient for the primary condition that necessitates the drug, side effects of the drug, and results of the drug, as appropriate;
(4) a record of drugs prescribed, administered, or dispensed, including the type of drug, dose, and any authorized refills.

*Last updated: 1/26/2012*
Alaska Statutes § 08.64.326(a)(5)
The board may impose a sanction if the board finds after a hearing that a licensee:
(5) has procured, sold, prescribed, or dispensed drugs in violation of a law regardless of whether there has been a criminal action.

ARIZONA MEDICAL BOARD

Substantive Policy Statement #12, Internet Prescribing, December 2006
The Arizona Medical Board (“Board”) issues this Substantive Policy Statement to provide guidance and education to physicians on the law regarding the use of the Internet in the physician-patient relationship.
Prior to prescribing any medication or device a physician must obtain a reliable medical history, conduct an appropriate physical examination, and establish a proper diagnosis for the medication or device being prescribed. A physician cannot rely on a questionnaire submitted over the Internet to meet these requirements.

27. "Unprofessional conduct" includes the following, whether occurring in this state or elsewhere:
(ss) Prescribing, dispensing or furnishing a prescription medication or a prescription-only device as defined in section 32-1901 to a person unless the licensee first conducts a physical examination of that person or has previously established a doctor-patient relationship. This subdivision does not apply to:
(i) A physician who provides temporary patient supervision on behalf of the patient's regular treating licensed health care professional.
(ii) Emergency medical situations as defined in section 41-1831.
(iii) Prescriptions written to prepare a patient for a medical examination.
(iv) Prescriptions written or prescription medications issued for use by a county or tribal public health department for immunization programs, emergency treatment, in response to an infectious disease investigation, public health emergency, infectious disease outbreak or act of bioterrorism. For the purposes of this item, "bioterrorism" has the same meaning as prescribed in section 36-781.
http://www.azleg.state.az.us/ars/32/01401.htm

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY

For the purposes of this chapter, "unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:
48. Prescribing, dispensing or furnishing a prescription medication or a prescription-only device to a person if the licensee has not conducted a physical examination of that person or has not previously established a physician-patient relationship. This paragraph does not apply to emergencies.
49. If a licensee provides medical care by computer, failing to disclose the licensee's license number and the board's address and telephone number.
http://www.azleg.state.az.us/FormatDocument.asp?inDoc=/ars/32/01854.htm&Title=32&DocType=ARS

ARKANSAS STATE MEDICAL BOARD

Ark. Code Ann. § 17-92-1003:
B) In the absence of a prior and proper patient-practitioner relationship, “prescription order” does not include an order for a prescription-only drug issued solely in response to:
Last updated: 2/16/2012
An internet questionnaire;
(ii) An Internet consultations; or
(iii) A telephonic consultation; and

(15) “Proper practitioner-patient relationship” means that before the issuance of a prescription, a practitioner, physician, or other prescribing health professional performs a history and in-person physical examination of the patient adequate to establish a diagnosis and to identify underlying conditions or contraindications to the treatment recommended or provided unless:

(A) The prescribing practitioner is consulting at the specific request of another practitioner who:
(i) Maintains an ongoing relationship with the patient;
(ii) Has performed an in-person physical examination of the patient; and
(iii) Has agreed to supervise the patient’s ongoing care and use of prescribed medications; or
(B) The prescribing practitioner interacts with the patient through an on-call or cross coverage situation.

(a) A pharmacy shall not sell, dispense, distribute, deliver, or participate in the sale, dispensing, distribution, or delivery of any prescription-only drug to any consumer in this state through an Internet site or by electronic mail unless:
(1) All Internet sites and electronic mail used by the person for purposes of sales or delivery of a prescription-only drug are in compliance with all requirements of federal law applicable to the site or electronic mail;
(2)(A) The pharmacy that sells, dispenses, distributes, or delivers the prescription-only drug is in compliance with all requirements of relevant state law.
(B) The pharmacy shall be properly regulated by the Arkansas State Board of Pharmacy to engage in the practice of pharmacy pursuant to § 17-92-101 et seq;
(3)(A) The pharmacy, if a foreign entity, is registered with the Secretary of State and is in compliance with all requirements for foreign corporations provided in any applicable state law.
(B) Nothing in this subdivision (a)(3) shall be construed to authorize any corporation to engage in the practice of medicine contrary to any applicable Arkansas law; and
(4) Any practitioner who sells, dispenses, distributes, or delivers the prescription-only drug is in compliance with all requirements of relevant state law.
(b) Any practitioner who writes a prescription order through an Internet site or electronic mail for a consumer physically located in this state who is not an established patient shall be licensed by the applicable licensing board and in compliance with all applicable laws.

http://170.94.58.9/NXT/gateway.dll?f=templates&fn=default.htm&vid=blr:code

Ark. Admin. Code 070.00.7-07-00-0009
In accordance with Ark. Code Ann. § 17-92-1004(c) and Ark. Code Ann. § 17-92-1003(15), an in-person physical exam of the patient performed by a practitioner, physician, doctor or other prescribing health professional (“a practitioner”) prior to the issuance of any prescription is required in order to establish a valid prior patient-practitioner relationship for purposes of Ark. Code Ann. § 17-92-1004(c) and a “Proper Physician-Patient Relationship” for purposes of Ark. Code Ann. § 17-92-1003(15), unless:
(a) The prescribing practitioner is consulting at the specific request of another practitioner who:
(i) Maintains an ongoing relationship with the patient;
(ii) Has performed an in-person physical examination of the patient; and
(iii) Has agreed to supervise the patient’s ongoing care and use of prescribed medications; or
(B) The prescribing practitioner interacts with the patient through an on-call or cross coverage situation.

Last updated: 2/16/2012
Arkansas State Medical Board Regulation 2.8
Allows the Board to revoke or suspend a physician’s license for negligence or malpractice. Gross negligence includes a physician prescribing medications without first establishing a proper physician/patient relationship.
http://www.armedicalboard.org/Professionals/pdf/MPA.pdf

MEDICAL BOARD OF CALIFORNIA

Internet Prescribing: Ordering prescriptions through the Internet? Buyer beware!
Ordering drugs without a relationship with a physician is potentially dangerous. By law, prescription drugs must be prescribed by a physician. There is good reason for this, as drugs should only be prescribed after an examination is performed and the cause of the problem or condition is diagnosed. On-line "consultations" cannot, with any certainty, provide enough information to make a verifiable diagnosis.

Many of the sites offering prescriptions for drugs are operating illegally. In California, the law requires that physicians and pharmacists be licensed, and that physicians perform a physical exam prior to prescribing drugs. It is generally impossible for consumers to determine the licensing status of the physician or pharmacist by the information on Internet pharmacy Web sites. In addition, many sites only require a questionnaire and do not verify the most basic facts needed for physicians to prescribe pharmaceuticals safely.

http://www.medbd.ca.gov/buyerbeaware.htm

Cal. Bus. & Prof. Code § 2242
2242. (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without a good faith prior examination and medical indication therefor, constitutes unprofessional conduct.
(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:
(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.
(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility, and if both of the following conditions exist:
(A) The practitioner had consulted with the registered nurse or licensed vocational nurse who had reviewed the patient's records.
(B) The practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.
(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refilling.
(4) The licensee was acting in accordance with Section 120582 of the Health and Safety Code.
http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=32709824051+0+0+0&W AISaction=retrieve

Cal. Bus. & Prof. Code § 2242.1(a)
(a) No person or entity may prescribe, dispense, or furnish, or cause to be prescribed, dispensed or furnished, dangerous drugs or dangerous devices as defined in Section 4022, on the Internet for delivery to any person in this state, without an appropriate prior examination and medical indication, except as authorized by Section 2242.

http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=32709824051+0+0+0&W AISaction=retrieve

Last updated: 2/16/2012
Cal. Bus. & Prof. Code § 4607

4067. (a) No person or entity shall dispense or furnish, or cause to be dispensed or furnished, dangerous drugs or dangerous devices, as defined in Section 4022, on the Internet for delivery to any person in this state without a prescription issued pursuant to a good faith prior examination of a human or animal for whom the prescription is meant if the person or entity either knew or reasonably should have known that the prescription was not issued pursuant to a good faith prior examination of a human or animal, or if the person or entity did not act in accordance with Section 1761 of Title 16 of the California Code of Regulations.

(b) Notwithstanding any other provision of law, a violation of this section may subject the person or entity that has committed the violation to either a fine of up to twenty-five thousand dollars ($25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of twenty-five thousand dollars ($25,000) per occurrence.

(c) The Attorney General may bring an action to enforce this section and to collect the fines or civil penalties authorized by subdivision (b).

(d) For notifications made on and after January 1, 2002, the Franchise Tax Board, upon notification by the Attorney General or the board of a final judgment in an action brought under this section, shall subtract the amount of the fine or awarded civil penalties from any tax refunds or lottery winnings due to the person who is a defendant in the action using the offset authority under Section 12419.5 of the Government Code, as delegated by the Controller, and the processes as established by the Franchise Tax Board for this purpose. That amount shall be forwarded to the board for deposit in the Pharmacy Board Contingent Fund.

(e) Nothing in this section shall be construed to permit the unlicensed practice of pharmacy, or to limit the authority of the board to enforce any other provision of this chapter.

(f) For the purposes of this section, "good faith prior examination" includes the requirements for a physician and surgeon in Section 2242 and the requirements for a veterinarian in Section 2032.1 of Title 16 of the California Code of Regulations.

http://www.leginfo.ca.gov/cgi-bin/waisgate?WAISdocID=32729625486+0+0+0&WAISaction=retrieve

OSTEOPATHIC MEDICAL BOARD OF CALIFORNIA

See above.

COLORADO BOARD OF MEDICAL EXAMINERS


It is the position of the Colorado Board of Medical Examiners that it is unprofessional conduct for a physician to provide treatment and consultation recommendations, including issuing a prescription, via electronic or other means, unless the physician has obtained a history and physical evaluation of the patient adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment recommended/provided. Before prescribing a drug, a physician should make an informed medical judgment based on the circumstances of the situation and on his/her training and experience. Ordinarily, this will require that the physician perform an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan, a part of which might be a prescription. A patient record should be initiated, and this process documented appropriately. Prescribing for a patient whom the physician has not personally examined may or may not be suitable under certain circumstances. These may include, but may not be limited to, admission orders for a newly hospitalized patient, prescribing for a patient of another doctor for whom the physician is taking call, or continuing medication on a short-term basis for a new patient prior to the patient’s first appointment. Established patients may not require a new history and physical examination for each new prescription, however, charting of the prescription in the patient record is always required.

http://www.dora.state.co.us/medical/Policy40-9.htm

Last updated: 2/16/2012
Colo. Rev. Stat. § 10-16-123
It is the intent of the general assembly to recognize the practice of telemedicine as a legitimate means by which an individual in a rural area may receive medical services from a provider without person-to-person contact with the provider.

Colo. Rev. Stat. § 12-36-106(1)(g)
(1) For the purpose of this article, “practice of medicine,” means:
(g) The delivery of telemedicine. Nothing in this paragraph (g) authorizes physicians to deliver services outside their scope of practice or limits the delivery of health services by other licensed professionals, within the professional’s scope of practice, using advanced technology, including, but not limited to, interactive audio, interactive video, or interactive data communication.

(1) “Unprofessional conduct” as used in this article means:
(jj) Any act or omission in the practice of telemedicine that fails to meet generally accepted standards of medical practice.

CONNECTICUT MEDICAL EXAMINING BOARD
Internet prescribing not specifically addressed by law, rule or policy.

DELAWARE BOARD OF MEDICAL PRACTICE
Internet prescribing not specifically addressed by law, rule or policy.

DISTRICT OF COLUMBIA BOARD OF MEDICINE
DC Board of Medicine Medical Board Newsletter. “Information for the Medical Community and the Public.” 10/01/1998.
PREScribing REMINDER. History and Physical Required. The D.C. Board of Medicine recently received a letter from Pfizer, Inc. that expressed concern about advertisements on the Internet and elsewhere for Viagra, a prescription medication. In view of this development, the Board wishes to remind D.C. licensees that the accepted standard of care requires that a physician complete a history and physical before prescribing any medication to a patient.

FLORIDA BOARD OF MEDICINE
(1) Prescribing medications based solely on an electronic medical questionnaire constitutes the failure to practice medicine with that level of care, skill, and treatment which is recognized by reasonably prudent physicians as being acceptable under similar conditions and circumstances, as well as prescribing legend drugs other than in the course of a physician's professional practice.
(2) Physicians and physician assistants shall not provide treatment recommendations, including issuing a prescription, via electronic or other means, unless the following elements have been met: (a) A documented patient evaluation, including history and physical examination to establish the diagnosis for which any legend drug is

Last updated: 2/16/2012
prescribed. (b) Discussion between the physician or the physician assistant and the patient regarding treatment options and the risks and benefits of treatment. (c) Maintenance of contemporaneous medical records meeting the requirements of Rule 64B8-9.003, F.A.C.

(3) The provisions of this rule are not applicable in an emergency situation. For purposes of this rule an emergency situation means those situations in which the prescribing physician or physician assistant determines that the immediate administration of the medication is necessary for the proper treatment of the patient, and that it is not reasonably possible for the prescribing physician or physician assistant to comply with the provision of this rule prior to providing such prescription.

(4) The provisions of this rule shall not be construed to prohibit patient care in consultation with another physician who has an ongoing relationship with the patient, and who has agreed to supervise the patient’s treatment, including the use of any prescribed medications, nor on-call or cross-coverage situations in which the physician has access to patient records.

http://fac.dos.state.fl.us/faconline/chapter64.pdf

Fla. Stat. § 465.03
Definitions--As used in this chapter, the term:
5. The term "Internet pharmacy" includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. Any act described in this definition constitutes the practice of pharmacy as defined in subsection (13).

http://www.flsenate.gov/Statutes/index.cfm?mode=View%20Statutes&SubMenu=1&App_mode=Display_Statute&Search_String=&URL=CH0465/Sec003.HTM

Fla. Stat. § 465.016
(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):
(s) Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003(14) or s. 893.02(20) when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship.


FLORIDA BOARD OF OSTEOPATHIC MEDICINE


(1) Prescribing medications based solely on an electronic medical questionnaire constitutes the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by reasonably prudent osteopathic physicians as being acceptable under similar conditions and circumstances, as well as prescribing legend drugs other than in the course of an osteopathic physician’s professional practice. Such practice shall constitute grounds for disciplinary action pursuant to Sections 459.015(1)(x) and (t), F.S.

(2) Osteopathic Physicians shall not provide treatment recommendations, including issuing a prescription, via electronic or other means, unless the following elements have been met: (a) A documented patient evaluation, including history and physical examination, adequate to establish the diagnosis for which any drug is prescribed. (b) Sufficient dialogue between the osteopathic physician and the patient regarding treatment options and the risks and benefits of treatment. (c) Maintenance of contemporaneous medical records meeting the requirements of Rule 64B15-15.004, F.A.C.

(3) The provisions of this rule are not applicable in an emergency situation. For purposes of this rule an emergency situation means those situations in which the prescribing physician determines that the immediate administration of
the medication is necessary for the proper treatment of the patient, and that it is not reasonably possible for the prescribing physician to comply with the provision of this rule prior to providing such prescription.

(4) The provisions of this rule shall not be construed to prohibit patient care in consultation with another physician who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including the use of any prescribed medications, nor on-call or cross-coverage situations in which the physician has access to patient records.

http://fac.dos.state.fl.us/faconline/chapter64.pdf

GEORGIA COMPOSITE STATE BOARD OF MEDICAL EXAMINERS

Ga. Comp. R. & Regs 360-3-.02
Unprofessional Conduct Defined.
O.C.G.A. §§ 43-1-19 authorize the Board to take disciplinary action against licensees for unprofessional conduct. "Unprofessional conduct" shall include, but is not limited to, the following:

(5) Prescribing controlled substances (O.C.G.A. T. 16, Ch. 13, Art. 2) and/or dangerous drugs (O.C.G.A. T. 16, Ch. 13, Art. 3) for a patient based solely on a consultation via electronic means with the patient, patient's guardian or patient's agent. This shall not prohibit a licensee who is on-call or covering for another licensee from prescribing up to a 72-hour supply of medications for a patient of such other licensee nor shall it prohibit a licensee from prescribing medications when documented emergency circumstances exist.

(6) Providing treatment and/or consultation recommendations via electronic or other means unless the licensee has performed a history and physical examination of the patient adequate to establish differential diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended. This shall not prohibit a licensee who is on call or covering for another licensee from treating and/or consulting a patient of such other licensee.

http://www.medicalboard.state.ga.us/pdfs/360-3.pdf

HAWAII BOARD OF MEDICAL EXAMINERS

Haw. Rev. Stat. § 453-1.3
(a) Nothing in this section shall preclude any physician acting within the scope of the physician's license to practice from practicing telemedicine as defined in this section.

(b) For the purposes of this section, “telemedicine” means the use of telecommunications services, including real-time video or web conferencing communication or secure web-based communication to establish a physician-patient relationship, to evaluate a patient, or to treat a patient. “Telehealth” as used in chapters 431, 432, and 432D, includes “telemedicine” as defined in this section.

(c) Telemedicine services shall include a documented patient evaluation, including history and a discussion of physical symptoms adequate to establish a diagnosis and to identify underlying conditions or contra-indications to the treatment recommended or provided.

(d) Treatment recommendations made via telemedicine, including issuing a prescription via electronic means, shall be held to the same standards of appropriate practice as those in traditional physician-patient settings that do not include a face to face visit but in which prescribing is appropriate, including on-call telephone encounters and encounters for which a follow-up visit is arranged. Issuing a prescription based solely on an online questionnaire is not treatment for the purposes of this section and does not constitute an acceptable standard of care. For the purposes of prescribing a controlled substance, a physician-patient relationship shall be established pursuant to chapter 329.

Last updated: 2/16/2012
(e) All medical reports resulting from telemedicine services are part of a patient's health record and shall be made available to the patient. Patient medical records shall be maintained in compliance with all applicable state and federal requirements including privacy requirements.

(f) A physician shall not use telemedicine to establish a physician-patient relationship with a patient in this State without a license to practice medicine in Hawaii. Once a provider-patient relationship is established, a patient or physician licensed in this State may use telemedicine for any purpose, including consultation with a medical provider licensed in another state, authorized by this section, or as otherwise provided by law.

IDAHO STATE BOARD OF MEDICINE

Idaho Admin. Code r. 54-1733. Validity of Prescription Drug Orders

(1) A prescription or drug order for a legend drug is not valid unless it is issued for a legitimate medical purpose arising from a prescriber-patient relationship which includes a documented patient evaluation adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment. Treatment, including issuing a prescription or drug order, based solely on an online questionnaire or consultation outside of an ongoing clinical relationship does not constitute a legitimate medical purpose.

(a) By a practitioner acting in the usual course of his profession; or

(b) By a physician, dentist, veterinarian, scientific investigator or other person, other than a pharmacist, who is licensed in a jurisdiction other than the state of Idaho and is permitted by such license to dispense, conduct research with respect to or administer the prescribed legend drugs in the course of his professional practice or research in such jurisdiction, so long as the individual is acting within the jurisdiction, scope and authority of his license when issuing the prescription drug order.

http://www3.state.id.us/oasis/H0611.html

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

Ill. Comp. Stat. Ann. 60/49.5

(c) For purposes of this Act, “telemedicine” means the performance of any of the activities listed in Section 49, including but not limited to rendering written or oral opinions concerning diagnosis or treatment of a patient in Illinois by a person located outside the state of Illinois as a result of transmission of individual patient data by telephonic, electronic, or other means of communication from within this State. “Telemedicine” does not include the following:

1. Periodic consultations between a person licensed under this Act and a person outside the State of Illinois;
2. A second opinion provided to a person licensed under this Act; and
3. Diagnosis or treatment services provided to a patient in Illinois following care or treatment originally provided to the patient in the state in which the provider is licensed to practice medicine.

Ill. Comp. Stat. Ann. 60/49

If any person does any of the following and does not possess a valid license issued under this Act, that person shall be sentenced as provided in Section 59: (i) holds himself or herself out to the public as being engaged in the diagnosis or treatment of physical or mental ailments or conditions including, but not limited to, deformities, diseases, disorders, or injuries of human beings; (ii) suggests, recommends or prescribes any form of treatment for the palliation, relief or cure of any physical or mental ailment or condition of any person with the intention of receiving, either directly or indirectly, any fee, gift, or compensation whatever; (iii) diagnoses or attempts to diagnose, operates upon, professes to heal, prescribes for, or otherwise treats any ailment or condition, or supposed ailment or condition, of another; (iv) maintains an office for examination or treatment of persons afflicted, or alleged or supposed to be afflicted, by any ailment or condition; (v) manipulates or adjusts osseous or articular structures; or (vi) attaches the title Doctor, Physician, Surgeon, M.D., D.O. or D.C. or any other word or

Last updated: 2/16/2012
abbreviation to his or her name indicating that he or she is engaged in the treatment of human ailments or conditions as a business.

**INDIANA HEALTH PROFESSIONS BUREAU**

A practitioner shall comply with this article when utilizing the internet in the delivery of patient care.

844 Ind. Admin. Code 5-3-2. Evaluation of the Patient.
A documented patient evaluation, including history and physical evaluation adequate to establish diagnoses and identify underlying conditions or contraindications to the treatment recommended or provided, must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise.”

844 Ind. Admin. Code 5-3-3. Treatment.
Treatment, including issuing a prescription, based solely on an on-line questionnaire or consultation is prohibited.”

844 Ind. Admin. Code 5-4-1.
Sec. 1. (a) Except in institutional settings, on-call situations, cross-coverage situations, and situations involving advanced practice nurses with prescriptive authority practicing in accordance with standard care arrangements, as described in subsection (d), a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never personally physically examined and diagnosed.
(b) Except in institutional settings, on-call situations, cross-coverage situations, and situations involving advanced practice nurses with prescriptive authority practicing in accordance with the requirements of IC 25-23-1-19.4 and 848 IAC 5, as described in subsection (d), a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any legend drug that is not a controlled substance to a person who the physician has never personally physically examined and diagnosed unless the physician is providing care in consultation with another physician who has an ongoing professional relationship with the patient, and who has agreed to supervise the patient’s use of the drug or drugs to be provided.

http://www.in.gov/legislative/iac/T08440/A00050.PDF

**KENTUCKY BOARD OF MEDICAL LICENSURE**

The prescribing and dispensing of medications via the Internet has created complex regulatory challenges for state medical boards in protecting the public. Accepted standards of medical practice must be upheld regardless of means of communication or delivery of health care services. Consumers obtaining prescriptions, medications, and/or medical treatments from Internet web sites without an adequate evaluation by a physician pose an immediate threat to the public health and safety.

For the past year, the KBML has been studying this problem. In order to adequately protect the public health, safety and welfare, the Board has taken the position that prescribing drugs to individuals the physician has never met based solely on answers to a set of questions, as is common in Internet prescribing, is inappropriate and unprofessional.

To ensure the public is adequately protected, the Board is proposing changes in the Medical Practice Act requiring physicians to establish and maintain a proper physician-patient relationship. An on-line or telephonic evaluation by questionnaire is inadequate for the initial evaluation or for the personal follow-up evaluation. The Board feels a

Last updated: 2/16/2012
valid physician/patient relationship cannot be established without an initial face-to-face evaluation by a health care professional.


Ky. Rev. Stat. Ann. § 311.597. Acts declared to constitute dishonorable, unethical, or unprofessional conduct. As used in KRS 311.595(9), "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof" shall include but not be limited to the following acts by a licensee:

(1) Prescribes or dispenses any medication:

(e) In response to any communication transmitted or received by computer or other electronic means, when the licensee fails to take the following actions to establish and maintain a proper physician-patient relationship:

1. Verification that the person requesting medication is in fact who the patient claims to be;
2. Establishment of a documented diagnosis through the use of accepted medical practices; and
3. Maintenance of a current medical record.

For the purposes of this paragraph, an electronic, on-line, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient or for any follow-up evaluation.

http://www.lrc.state.ky.us/KRS/311-00/597.PDF

Ky. Rev. Stat. Ann. § 315.035. Requirements for out-of-state pharmacy doing business through the Internet. (9) Any out-of-state pharmacy doing business, primarily or exclusively by use of the Internet shall, prior to obtaining a permit, receive and display in every medium in which it advertises itself a seal of approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS). VIPPS certification shall be maintained and remain current.

http://www.lrc.ky.gov/krs/315%2D00/0351.pdf

Telemedicine Policy Statement
Physicians living outside Kentucky but actively practicing medicine upon patients within Kentucky should be required to meet the same statutory qualifications and should be held to the same standards of acceptable and prevailing medical practice within the Commonwealth as are resident physicians practicing within the state.


LOUISIANA STATE BOARD OF MEDICAL EXAMINERS


The order of or prescription for medication constitutes a treatment determination which can have critical implications for the patient. Prescribing or authorizing the dispensation of medication in the absence of an appropriate physical examination and physician-patient contact is contraindicated. In most circumstances such conduct is very likely to cause harm to unwittingly and inappropriately diagnosed patients who are required to engage in self-assessment. Yet, such is precisely the nature of the practice employed by entrepreneurs' touting the availability of certain medications and even controlled substances without the "bother" of ever seeing or speaking with a physician. In the Board’s view, it is unlawful for a physician to prescribe medication, treatment or a plan of care generally if the physician has not examined the patient and established a diagnostic basis for such therapy.

Thus, in Louisiana, dispensing or prescribing medication in the absence of a physician-patient relationship represents conduct which is inconsistent with the prevailing and usually accepted standards of care and may be indicative of professional or medical incompetency. A physician establishes a physician-patient relationship by:

§ verifying that the person requesting the medication is in fact who they claim to be;
§ conducting an appropriate examination of the patient;

Last updated: 2/16/2012
§ Establishing a diagnosis through the use of accepted medical practices, i.e., a patient history, mental status, examination, physical examination and appropriate diagnostic and laboratory testing;
§ Discussing with the patient the diagnosis, risks and benefits of various treatment options; and
§ Insuring the availability for appropriate follow-up care.

As in all physician-patient interactions, the issuance of a prescription or order for medication must be documented in an adequate medical record, which includes the rationale for the medication prescribed. For these reasons, an online or telephonic evaluation by questionnaire for an individual that a physician has never seen is inadequate. A Louisiana licensed physician who participates in such activities, by ordering medication for dispensation to individuals who are residents of or located in this or another state, moreover, would be subject to administrative sanctions, including revocation of licensure. Perhaps more significant, it has long been the Board’s formally-stated position that any diagnosis, prescription, recommendation or administration of treatment, so as to effect the diagnosis or treatment for or with respect to an individual who is a resident of or located in Louisiana, constitutes the “practice of medicine” in this state, as defined by the Louisiana Medical Practice Act. As matter of law, to be valid, effective and lawful, each prescription or order for medication must be issued or given by an authorized practitioner (i.e., a Louisiana licensed physician) with respect to an individually identified patient, based on the practitioner’s examination and diagnosis of the patient. This is necessarily so because the Medical Practice Act restricts the practice of medicine to persons possessing a license issued by the Board. An individual who issues a prescription or orders medication for an individual who is a resident of or located in Louisiana, who does not possess a Louisiana medical license or other authorization to practice medicine in this state, is necessarily engaged in the unauthorized practice of medicine in contravention of the Medical Practice Act. Participants and entities engaged in such misconduct are subject to investigation, civil injunction, monetary fines and penalties. Such individuals may also be referred by the Board to the Louisiana Attorney General or an appropriate district attorney for criminal prosecution and incarceration for up to five (5) months for each such offense.


LA. Admin. Code Tit. 46, § 2515
A. A prescription issued solely on the results of answers to an electronic questionnaire, in the absence of a documented patient evaluation including a physical examination, is issued outside the context of a valid physician-patient relationship, and is not a valid prescription.
B. If a pharmacist has reasons to suspect that a prescription was authorized solely on the results of an electronic questionnaire and in the absence of a documented patient evaluation including a physical examination, the pharmacist shall ascertain if that practitioner's standard of practice allows that practitioner to authorize a prescription under such circumstances. Reasons to suspect that a prescription may have been authorized in the absence of a valid physician-patient relationship, or in violation of the practitioner's standard of practice, include:
1. the number of prescriptions authorized on a daily basis by the practitioner;
2. the manner in which the prescriptions are authorized by the practitioner or received by the pharmacy, i.e., electronically;
3. the geographical distance between the practitioner and the patient(s);
4. knowledge by the pharmacist that the prescription was issued solely as a result of answers to an electronic questionnaire; or
5. knowledge by the pharmacist that the pharmacy he works for directly or indirectly participates in an internet site that markets prescription drugs to the public.
C. A pharmacist who has reasons to suspect that a prescription may have been authorized in the absence of a valid physician-patient relationship, or otherwise in violation of the prescriber's standard of practice, shall not fill such prescription until he has obtained proof to a reasonable certainty of the validity of such prescription.
D. A pharmacist who dispenses prescription drugs in violation of this Section is not acting in the best interest of the patient and is dispensing outside the course of the professional practice of pharmacy.

LA. Admin. Code Tit. 46, § 7509

Last updated: 2/16/2012
A. Physicians who utilize telemedicine shall insure that a proper physician-patient relationship is established that at a minimum includes:
1. verification of the patient. Establishing that the person requesting the treatment is who the person claims to be;
2. evaluation. Conducting an appropriate evaluation of the patient, including review of any relevant history, laboratory or diagnostic studies, diagnoses, or other information deemed pertinent by the physician;
3. diagnosis. A diagnosis shall be established through the use of accepted medical practices including, but not limited to patient history, mental status and appropriate diagnostic and laboratory testing and fully documented in the patient's medical record. The diagnosis shall indicate the nature of the patient's disorder, illness, disease or condition and the reason for which treatment is being sought or provided;
4. Treatment plan. The physician shall discuss with his or her patient the diagnosis, as well as the risks and benefits of appropriate treatment options, and establish a treatment plan tailored to the needs of the patient. A treatment plan shall be established and fully documented in the patient's record; and
5. follow-up care. A plan for accessing follow-up care shall be provided to the patient in writing and documented in the patient's record

La. Admin. Code tit. 46, § 7513
Louisiana does not allow physicians to prescribe "on-line," rather only telemedically (which is simultaneously audio/video). Physicians licensed in Louisiana can utilize telemedicine within the state, those not licensed in Louisiana must have a telemedicine permit. It is also important to note that controlled substances (amphetamines/narcotics) cannot be prescribed telemedically except in certain cases specifically provided for.

MAINE BOARD OF LICENSURE IN MEDICINE

It is the policy of the Board of Licensure in Medicine that prescribing, dispensing or furnishing a prescription medication or device to a person who is not an established patient and whom the physician has not personally examined may be unprofessional conduct subject to disciplinary action pursuant to 32 MRSA, §3282-A, 2, (f). This rule does not apply to admission orders for a newly hospitalized patient, prescribing for a patient of another physician for whom the prescriber is providing coverage, or continuing medication on a short-term basis prior to a new patient's first appointment. Prescribing medications based solely on answers to a questionnaire or a consult over the Internet for a patient the physician has never met is inappropriate and unprofessional conduct. Physicians providing care and/or treatment to patients in Maine must be licensed in Maine.
http://www.docboard.org/me/polinternetprescribing.doc

MAINE BOARD OF OSTEOPATHIC LICENSURE

Adopts FSMB Model Guidelines for the Appropriate Use of the Internet in Medical Practice.
The Board has adopted the following guidelines for physicians utilizing the Internet in the delivery of patient care:

Evaluation of the Patient
A documented patient evaluation, including history and physical evaluation adequate to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided, must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise.

Treatment
Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (face-to-face)
settings. Treatment, including issuing a prescription, based solely on an online questionnaire or consultation does not constitute an acceptable standard of care.

MARYLAND BOARD OF PHYSICIANS

Board of Physician Quality Assurance Newsletter. Internet Prescribing: Does It Meet The Standard of Care? (We don’t think so!) Spring 1999.

With the rapid expansion of access to the internet in recent years, it is not too surprising that this wonderful tool brings a new set of issues to licensing authorities. Licensing boards across the country have been dealing with the practice of "telemedicine" and have taken positions about whether this type of practice will require full or limited licensure of physicians who utilize this technology. The issue each board has to decide is where the practice of medicine is occurring when the patient is in one state and the doctor is elsewhere in cyberspace. The Federation of State Medical Boards has taken the position that: "The practice of medicine occurs where the patient is." Thus, an out-of-state doctor using telemedicine to diagnose and treat a patient residing in Maryland would have to have a Maryland license or be acting as a consultant to a Maryland physician who has a bona fide doctor/patient relationship with the patient. Maryland physicians also should remember that if they practice medicine on patients elsewhere in cyberspace they are practicing in Maryland.

And now another issue has presented. Web sites have sprung up which advertise the availability of prescription medications on-line. No prescription? No problem. For a fee, an on-line consultation is available. The patient fills out a questionnaire which asks a number of health related questions. The questionnaire is submitted to the medical consultant and if the patient is approved, the patient is then assessed a fee for the consultation (generally $75) and the desired medication is subsequently provided by mail. All one needs is a credit card and the "right" answers, and medication is speeding on its way to his or her home in a "plain naked mailer." The BPQA has serious concerns about this practice. Let's say the patient wants a drug like Viagra. Is an on-line questionnaire about the patient's past medical history really a medical consultation? Does a bona fide doctor/patient relationship exist when a person, previously unknown to the consultant, provides subjective answers to such questions as: "Do you have a heart disease?" Would a physician providing prescription medications to a patient based on a questionnaire be meeting the standard of care? In February, the Federation of State Medical Boards (FSMB) participated in a meeting sponsored by the Food and Drug Administration to discuss on-line prescribing and sale of prescription medications. The FSMB attended to convey concern on behalf of state medical boards that engaging in Internet prescribing may be falling below acceptable standards of care, and may be endangering the health of individuals for whom they are prescribing.

The BPQA will be monitoring internet sites which advertise the availability of prescription medications after an on-line consultation. Any doctor providing the consultation or prescribing for a patient in Maryland who is not licensed in Maryland can be subject to up to a $50,000 fine for practicing medicine without a license. Doctors licensed in Maryland can expect their on-line prescribing to be subjected to peer review. Anyone with information about on-line consultation leading to prescription medications should contact the BPQA by phone at 1-800-492-6836, or by e-mail at BPQA@EROLS.COM.

http://www.bpqa.state.md.us/pages/march_1999.html

Board of Physicians Newsletter, Spring 2005
INTERNET PRESCRIBING

The personal computer has had a profound effect on all aspects of American society, including the practice of medicine. Computers are used for administrative tasks such as scheduling and accounting, providing consumers with general health information, and facilitating direct communication between physician and patients. There are, however, some inappropriate applications of computer technology.

Last updated: 2/16/2012
One inappropriate application is prescribing over the Internet if the physician does not know the patient. In some cases, a patient fills a questionnaire online; the information in that questionnaire is all the physician knows about the patient. The physician has never talked with, or examined the patient. The Maryland Board of Physicians does not believe that a physician is meeting the standard of quality care if the physician prescribes for an unknown patient over the Internet. The Board strongly advises you to steer clear, if you are approached to participate in such an arrangement.

http://www.mbp.state.md.us/forms/spring05.pdf

Md. Code Regs. 10.32.05.05
A. A physician shall perform a patient evaluation adequate to establish diagnoses and identify underlying conditions or contraindications to recommended treatment options before providing treatment or prescribing medication.
B. A Maryland-licensed physician may rely on a patient evaluation performed by another Maryland-licensed physician if one physician is providing coverage for the other physician.
C. If a physician-patient relationship does not include prior in-person, face-to-face interaction with a patient, the physician shall incorporate real-time auditory communications or real-time visual and auditory communications to allow a free exchange of information between the patient and the physician performing the patient evaluation.

MASSACHUSETTS BOARD OF REGISTRATION IN MEDICINE

Internet Prescriptions. As discussed in detail below, a prescription to be legally valid must be issued within the context of a physician-patient relationship under circumstances in which the physician has conformed to certain minimum norms and standards for the care of patients, such as taking an adequate medical history and conducting an appropriate physical examination. Prescribing over the internet while deviating from these requirements is therefore unlawful.


This statutory language sets forth the minimum requirements that must be met in order for a prescription to be valid in the Commonwealth. To satisfy the requirement that a prescription be issued by a practitioner in the usual course of his professional practice, there must be a physician-patient relationship that is for the purpose of maintaining the patient's well-being and the physician must conform to certain minimum norms and standards for the care of patients, such as taking an adequate medical history and conducting an appropriate physical and/or mental status examination and recording the results. Issuance of a prescription, by any means, including the internet or other electronic process, that does not meet these requirements is therefore unlawful.


(a) A prescription for a controlled substance to be valid shall be issued for a legitimate medical purpose by a practitioner acting in the usual course of his professional practice.

MICHIGAN BOARD OF MEDICINE

PUBLIC HEALTH CODE (EXCERPT), Act 368 of 1978
333.17751 Dispensing prescription drug requirements. Sec. 17751.
(1) A pharmacist shall not dispense a drug requiring a prescription under the federal act or a law of this state except under authority of an original prescription or an equivalent record of an original prescription approved by the board.

Last updated: 2/16/2012
(2) A pharmacist may dispense a prescription written and signed or transmitted by facsimile, electronic transmission, or other means of communication by a physician prescriber in a state other than Michigan, but not including a prescription for a controlled substance as defined in section 7104 except under circumstances described in section 17763(e), only if the pharmacist in the exercise of his or her professional judgment determines all of the following:
   (a) That the prescription was issued pursuant to an existing physician-patient relationship.
   (b) That the prescription is authentic.
   (c) That the prescribed drug is appropriate and necessary for the treatment of an acute, chronic, or recurrent condition.

(3) A pharmacist or a prescriber shall dispense a prescription only if the prescription falls within the scope of practice of the prescriber.

(4) A pharmacist shall not knowingly dispense a prescription after the death of the prescriber or patient.

State of Michigan, Department of Community Health, Internet Prescribing and Prescriptions Statement, December 2003
The Michigan Board of Pharmacy, the National Association of Boards of Pharmacy, and the Federation of State Medical Boards all consider prescriptions issued pursuant only to an Internet questionnaire to be invalid. There is no existing physician-patient relationship when the physician and patient have not interacted except on the basis of an online questionnaire.

For the past year, the Bureau of Health Professions has been contacted by a number of Michigan pharmacies inquiring about this practice after they have been contacted by Internet operators. The Internet operator keeps the majority of the profit while the pharmacy, pharmacist and physician are disciplined by their professional licensing boards. If you are contacted by an Internet operator, you should be aware that you may be participating in a transaction that is not legal in Michigan.

Some of these Internet operators will avoid prescriptions for controlled substances in order to steer clear of the Drug Enforcement Administration (DEA), but that will not prevent the appropriate licensing board from sanctioning your professional license.

If you have questions about Internet prescriptions, you may contact the Bureau of Health Professions, Health Investigation Division at (517) 373-1737.

MINNESOTA BOARD OF MEDICAL PRACTICE

Minn. Stat. § 151.37
(d) A prescription or drug order for the following drugs is not valid, unless it can be established that the prescription or order was based on a documented patient evaluation, including an examination, adequate to establish a diagnosis and identify underlying conditions and contraindications to treatment:
   (1) controlled substance drugs listed in section 152.02, subdivisions 3 to 5;

Last updated: 2/16/2012
(2) drugs defined by the Board of Pharmacy as controlled substances under section 152.02, subdivisions 7, 8, and 12;
(3) muscle relaxants;
(4) centrally acting analgesics with opioid activity;
(5) drugs containing butalbital; or
(6) phosphodiesterase type 5 inhibitors when used to treat erectile dysfunction.
(e) For the purposes of paragraph (d), the requirement for an examination shall be met if an in-person examination has been completed in any of the following circumstances:
(1) the prescribing practitioner examines the patient at the time the prescription or drug order is issued;
(2) the prescribing practitioner has performed a prior examination of the patient;
(3) another prescribing practitioner practicing within the same group or clinic as the prescribing practitioner has examined the patient;
(4) a consulting practitioner to whom the prescribing practitioner has referred the patient has examined the patient; or
(5) the referring practitioner has performed an examination in the case of a consultant practitioner issuing a prescription or drug order when providing services by means of telemedicine.

MISSISSIPPI STATE BOARD OF MEDICAL LICENSURE


Essential components of proper prescribing and legitimate medical practice requires that the physician obtains a thorough medical history and conducts an appropriate physical examination before prescribing any medication for the first time. Exceptions to this circumstance that would be permissible may include, but not be limited to: admission orders for a newly hospitalized patient, prescribing for a patient of another physician for whom the prescriber is taking call, or continuing medication on a short term basis for a new patient prior to the patient’s first appointment. Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice. It is the position of the Mississippi State Board of Medical Licensure that prescribing drugs to individuals that the physician has never met and based solely on answers to a set of questions, as is found in Internet or toll-free telephone prescribing is inappropriate, fails to meet a basic standard of care that potentially places patients health at risk and could constitute unprofessional conduct punishable by disciplinary action.


30-17-1:21 Miss. Code. R. § 100
100. Essential components of proper prescribing and legitimate medical practice require that the physician obtains a thorough medical history and conducts an appropriate physical and/or mental examination before prescribing any medication for the first time.

30-17-1:21 Miss. Code. R. § 101
101. Exceptions to this circumstance that would be permissible may include, but not be limited to: admission orders for a newly hospitalized patient, prescribing for a patient of another physician for whom the prescriber is taking call, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment. Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice.

30-17-1:21 Miss. Code. R. § 102
102. Prescribing drugs to individuals that the physician has never met and based solely on answers to a set of questions, as is found in Internet or toll-free telephone prescribing, is inappropriate, fails to meet a basic standard of care.
care that potentially places patient's health at risk and could constitute unprofessional conduct punishable by disciplinary action.

MISSOURI STATE BOARD OF REGISTRATION FOR THE HEALING ARTS

Mo. Rev. Stat. § 334.010
1. It shall be unlawful for any person not now a registered physician within the meaning of the law to practice medicine or surgery in any of its departments, to engage in the practice of medicine across state lines or to profess to cure and attempt to treat the sick and others afflicted with bodily or mental infirmities, or engage in the practice of midwifery in this state, except as herein provided.
2. For the purposes of this chapter, the "practice of medicine across state lines" shall mean:
   (1) The rendering of a written or otherwise documented medical opinion concerning the diagnosis or treatment of a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or physician's agent; or
   (2) The rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic or other means from within this state to such physician or physician's agent.
3. A physician located outside of this state shall not be required to obtain a license when:
   (1) In consultation with a physician licensed to practice medicine in this state; and
   (2) The physician licensed in this state retains ultimate authority and responsibility for the diagnosis or diagnoses and treatment in the care of the patient located within this state; or
   (3) Evaluating a patient or rendering an oral, written or otherwise documented medical opinion, or when providing testimony or records for the purpose of any civil or criminal action before any judicial or administrative proceeding of this state or other forum in this state; or
   (4) Participating in a utilization review pursuant to section 376.1350, RSMo.

http://www.moga.state.mo.us/statutes/C300-399/3340000010.HTM

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:
   (4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct or unprofessional conduct in the performance of the functions or duties of any profession licensed or regulated by this chapter, including, but not limited to, the following:
      (h) Signing a blank prescription form; or dispensing, prescribing, administering or otherwise distributing any drug, controlled substance or other treatment without sufficient examination, or for other than medically accepted therapeutic or experimental or investigative purposes duly authorized by a state or federal agency, or not in the course of professional practice, or not in good faith to relieve pain and suffering, or not to cure an ailment, physical infirmity or disease, except as authorized in section 334.104;

MONTANA BOARD OF MEDICAL EXAMINERS

Internet prescribing not specifically addressed by law, rule or policy.

Last updated: 2/16/2012
It is unprofessional conduct for a physician to initially prescribe drugs to an individual without first establishing a proper physician-patient relationship. A proper relationship, at a minimum, requires that the physician make an informed medical judgment based on the circumstances of the situation and on his/her training and experience. This will require that the physician: 1. Personally perform an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan. This process must be documented appropriately; and 2. Discuss with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment option; and 3. Insure the availability of the physician or coverage for the patient for appropriate follow-up care.

Prescribing for a patient whom the physician has not personally examined may be suitable under certain circumstances. These may include, but not be limited to: 1. Admission orders for a newly hospitalized patient; 2. Prescribing for a patient of another physician for whom the prescriber is taking call; 3. Prescribing for a patient examined by a licensed advanced practice registered nurse, physician assistant or other advanced practice practitioner authorized by law and supervised by a physician; or 4. Continuing medication on a short-term basis for a new patient prior to the patient’s first appointment.

Prescribing drugs to individuals the physician has never met based solely on answers to a set of questions, as is common in internet or toll-free telephone prescribing, is inappropriate and unprofessional.

6. Prescribing drugs to an individual the physician has never met based solely on answers to questions provided by the internet, telephone, or FAX;
7. Prescribing drugs to an individual without first establishing a proper physician-patient relationship. A proper physician-patient relationship requires that the physician make an informed medical judgement upon examination, diagnosis, and formulation of a treatment plan and that arrangements exist to insure availability of the physician or physician coverage for follow-up patient care.

Statement of Position, Newsletter Volume 23, April 2000
BOARD’S POSITION ON THE PRESCRIBING OF VIAGRA
(REPRINT FROM OCTOBER 1998 BOARD NEWSLETTER)
At its August 22, 1998 meeting, the board considered the matter of the prescribing of Viagra. The board has determined that it is inappropriate for a physician licensed in the state of Nevada to prescribe Viagra to a patient without personally conducting an appropriate physical examination of the patient.
http://www.medboard.nv.gov/newsletters/vol23.htm

Revised Statutes Chapter 453.3611-453.3648
NRS 453.3643 Unlawful acts relating to issuance of prescription; circumstances under with practitioner or person licensed by another jurisdiction is prohibited from prescribing prescription drug; aiding unlawful act prohibited; penalties; multiple punishments authorized.
1. A practitioner who is located within this state shall not prescribe a prescription drug for another person located within or outside this state if:
(a) The practitioner has not physically examined the other person within the 6 months immediately preceding the date on which the prescription is issued; and

Last updated: 2/16/2012
(b) The practitioner knows or has reasonable cause to believe that an illegal Internet pharmacy will fill the prescription or otherwise use the prescription to deliver or cause, allow or aid in the delivery of the prescription drug to the other person.

2. A practitioner who is located outside this state and who knows or has reasonable cause to believe that another person is located within this state shall not prescribe a prescription drug for the other person if:
   (a) The practitioner has not physically examined the other person within the 6 months immediately preceding the date on which the prescription is issued; and
   (b) The practitioner knows or has reasonable cause to believe that an illegal Internet pharmacy will fill the prescription or otherwise use the prescription to deliver or cause, allow or aid in the delivery of the prescription drug to the other person.

3. A person who is located outside this state, who is licensed by another jurisdiction to prescribe prescription drugs and who knows or has reasonable cause to believe that another person is located within this state shall not prescribe a prescription drug for the other person if:
   (a) The person has not physically examined the other person within the 6 months immediately preceding the date on which the prescription is issued; and
   (b) The person knows or has reasonable cause to believe that an illegal Internet pharmacy will fill the prescription or otherwise use the prescription to deliver or cause, allow or aid in the delivery of the prescription drug to the other person.

4. A person shall not knowingly aid another person in any act or transaction that violates the provisions of this section.

5. Except as otherwise provided in subsection 6, a practitioner or any other person who violates the provisions of this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

6. A practitioner or any other person who violates the provisions of this section is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 3 years and a maximum term of not more than 15 years, and may be further punished by a fine of not more than $100,000, if the substance or drug involved:
   (a) Is classified in schedule I; or
   (b) Proximately causes substantial bodily harm to or the death of the intended recipient of the substance or drug or any other person.

7. The court shall not grant probation to or suspend the sentence of a practitioner or any other person punished pursuant to subsection 6.

8. A practitioner or any other person may be prosecuted, convicted and punished for a violation of this section whether or not the practitioner or person is prosecuted, convicted or punished for violating any other specific statute based upon the same act or transaction.

http://www.leg.state.nv.us/NRS/NRS-453.html#NRS453Sec3611

NEVADA STATE BOARD OF OSTEOPATHIC EXAMINERS

See above.

NEW HAMPSHIRE BOARD OF MEDICINE

Guidelines for Physician Internet and Telephone Prescribing, April 7, 2004
There must be an appropriate relationship between the patient and the physician before a prescription is written and dispensed. A documented patient evaluation, including history and physical examination, adequate to establish diagnoses and identify underlying conditions and/or contraindications to the treatment recommended or provided, must be obtained prior to providing treatment, including issuing prescriptions electronically or otherwise.

Last updated: 2/16/2012
Prescribing drugs to individuals the physician has never met, based solely on answers to a set of questions, as is common in Internet prescribing, is inappropriate and unprofessional. An on-line or telephone evaluation by questionnaire is inadequate for the initial evaluation or for the personal follow-up evaluation. It is the position of the Board that prescribing drugs under such circumstances, without appropriate documentation of a history and physical examination; a diagnosis; and a formulated therapeutic plan, a part of which might be a prescription; shall be considered unprofessional conduct in violation of RSA 329:17, VI, and may be cause for discipline. Furthermore, the advertising or offering by a physician, or permitting the physician's name or license to be used in such advertisement to provide any prescription in a manner that would violate the above guidelines shall be considered unprofessional conduct, in violation of RSA 329:17, VI, and may be cause for discipline.

The members of the NH Board of Medicine have interpreted that a sufficient examination in the establishment of a valid physician-patient relationship cannot take place without an initial face-to-face encounter with the patient. It requires at the minimum: 1) verifying the person requesting the medication is who they claim to be; 2) establishing a diagnosis through the use of acceptable medical practices, such as patient history, mental status exam, physical exam, and appropriate diagnostic and laboratory testing by the prescribing physician; 3) discussing with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment options; and 4) ensuring availability of the physician or coverage for the patient for appropriate follow-up care; (which usually includes a face-to-face encounter at least once a year and as often as is necessary to assure safe continuation of medication.) Complete management of a patient by Internet, e-mail, or other forms of electronic communication is inappropriate.


“Physician-patient relationship” means a medical connection between a licensed physician and a patient that includes an in-person exam, a history, a diagnosis, a treatment plan appropriate for the licensee's medical specialty, and documentation of all prescription drugs including name and dosage. A licensee may prescribe for a patient whom the licensee does not have a physician-patient relationship under the following circumstances: writing admission orders for a newly hospitalized patient; for a patient of another licensee for whom the prescriber is taking call; for a patient examined by a physician assistant, nurse practitioner, or other licensed practitioner; or for medication on a short-term basis for a new patient prior to the patient's first appointment or when providing limited treatment to a family member in accordance with the American Medical Association Code of Medical Ethics. Prescribing drugs to individuals without a physician-patient relationship shall be unprofessional conduct subject to discipline under RSA 329:17, VI.


I. No person shall conduct or operate a pharmacy for the sale at retail of drugs and medicines unless such pharmacy is registered with and a permit therefore has been issued by the pharmacy board, except as provided in this chapter.

II. (a) No person shall conduct or operate a mail-order pharmacy located outside of this state by shipping, mailing, or delivering prescription drugs into this state unless such pharmacy is registered in New Hampshire and a permit has been issued by the New Hampshire pharmacy board.

(b) To obtain a permit, a mail-order pharmacy shall comply with each of the following:

1. Maintain a license in good standing from the state in which the mail-order pharmacy is located;
2. Submit to the New Hampshire pharmacy board an application for registration as provided by the New Hampshire pharmacy board;
3. Pay all appropriate registration fees;
4. Submit to the New Hampshire pharmacy board a copy of the state pharmacy license from the state in which the mail order pharmacy is located;
5. Submit to the New Hampshire pharmacy board a copy of the state and federal controlled substance registrations from the state in which it is located, if controlled substances are to be shipped into this state.


_Last updated: 2/16/2012_
NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS


a) Except as provided in (b) below, a practitioner shall not dispense drugs or issue prescriptions to an individual, pursuant to the requirements of this subchapter, without first having conducted an examination, which shall be appropriately documented in the patient record. As part of the patient examination, the practitioner shall:

1. Perform an appropriate history and physical examination;
2. Make a diagnosis based upon the examination and all diagnostic and laboratory tests consistent with good medical care;
3. Formulate a therapeutic plan and discuss such plan, along with the basis for the plan and the risks and benefits of various treatment options, with the patient; and
4. Ensure the availability of the physician or coverage for the patient for appropriate follow-up care.

(b) Notwithstanding (a) above, an examination of the patient's condition shall not be required prior to the dispensing of drugs or the issuance of a prescription under the following circumstances:

1. In admission orders for a newly hospitalized patient;
2. For a patient of another physician for whom the practitioner is taking calls;
3. For continuation medications on a short term basis for a new patient prior to the patient's first appointment;
4. For an established patient who, based on sound medical practice, the physician believes does not require a new examination before issuing a new prescription;
5. For a patient examined by a healthcare professional who is in collaborative practice with the practitioner; and
6. When treatment is provided by a practitioner for an emergency medical condition.

(c) For purposes of this section, the term “emergency medical condition” as used in (b) above means:

1. A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:
   i. Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;
   ii. Serious impairment to bodily functions; or
   iii. Serious dysfunction of any bodily organ or part.

NEW MEXICO MEDICAL BOARD

N.M. Code R. §16.10.87

Established physician patient relationship means a relationship between a physician and a patient that is for the purpose of maintaining the patient's well-being. At a minimum, this relationship is established by an interactive encounter between patient and physician involving an appropriate history and physical and/or mental status examination sufficient to make a diagnosis and to provide, prescribe or recommend treatment, with the informed consent from the patient and availability of the physician or coverage for the patient for appropriate follow-up care. A medical record must be generated by the encounter.

N.M. Code R. §16.10.8.8. Unprofessional or Dishonorable Conduct.

“Unprofessional or dishonorable conduct” includes, but is not limited to, the following:

L. Prescribing drugs or medical supplies to a patient when there is no established physician-patient relationship, which would include at a minimum an adequate history and physical examination and informed consent, except for on-call physicians and physician assistants.

Last updated: 2/16/2012
(1) physicians and physician assistants on call for another practitioner, or responsible for another practitioner's patients in an established clinic or office, or acting as locum tenens where a physician-patient relationship has previously been established and documented in the practitioner's or clinic's record;
(2) physicians and physician assistants in emergency room or urgent care settings;
(3) prescriptions written to prepare a patient for special examination(s) or laboratory testing;
(4) prescribing or dispensing for immunization programs;
(5) the provision of treatment for partners of patients with sexually transmitted diseases when this treatment is conducted in accordance with the expedited partner therapy guidelines and protocol published by the New Mexico department of health; and
(6) the provision of consultation, recommendation, or treatment during a face-to-face telehealth encounter online, using standard videoconferencing technology, where a medical history and informed consent are obtained and a medical record generated by the practitioner, and a physical examination is:
   (a) recorded as appropriate by the practitioner, or a practitioner such as a physician, a physician or anesthesiologist assistant, or an advanced practice nurse, with the results communicated to the telehealth practitioner; or
   (b) waived when a physical examination would not normally be part of a typical physical face-to-face encounter with the patient for the specific services being provided.

N.M. Code R. § 16.10.16.7
F. ‘Established physician- or physician assistant-patient relationship’ means a relationship between a physician or physician assistant and a patient that is for the purpose of maintaining the patient's well-being. At a minimum, this relationship is established by an interactive encounter between patient and physician or physician assistant involving an appropriate history and physical or mental status examination sufficient to make a diagnosis and to provide, prescribe or recommend treatment, with the informed consent from the patient and availability of the physician or physician assistant or coverage for the patient for appropriate follow-up care. A medical record must be generated by the encounter.

NEW YORK STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

New York State Board for Professional Medical Conduct: Practitioner Update: New York State Department of Health Summer 2007 Bureau of Narcotic Enforcement Internet Prescribing of Controlled Substances
Section 80.63 of the controlled substance regulations requires a practitioner to physically examine a patient prior to initially prescribing a controlled substance. Issuing a prescription for a controlled substance solely on the basis of a questionnaire or other medical history submitted to a practitioner over the Internet does not meet the requirement of a physical examination or establish a legitimate practitioner-patient relationship and is not a valid prescription. After the initial physical examination of the patient, the frequency and need for future examinations prior to prescribing a controlled substance for the same acute or chronic condition will be made by the practitioner utilizing generally accepted medical standards.

Statements on Telemedicine, December 24, 2003
The practice of telemedicine can be characterized as follows:
• The geographic separation between two or more participants and/or entities engaged in health care,
• The use of telecommunication and related technology to gather, store and disseminate health-related information, and
• The use of electronic interactive technologies to assess, diagnose and/or treat medical conditions.
All the current standards of care regarding the practice of medicine apply. The fact that an electronic medium is utilized for contact between parties or as a substitute for face-to-face consultation does not change the standards of care.

Last updated: 2/16/2012
N.Y. Comp. Codes R. & Regs tit.10 § 80.063
(a) a prescription as defined by the Public Health Law means:
(1) an official New York state prescription
(2) an oral prescription; or
(3) an out of state prescription, which means a prescription issued in lieu of an official prescription by a practitioner in another state who is licensed by that state to prescribe controlled substances.
(b) The use of preprinted prescriptions which indicate the controlled substance, dosage and/or quantity of the controlled substance is prohibited. Such prohibition shall not apply to printed prescriptions generated by means of a computer or an electronic medical record system, provided such printed prescriptions are generated at the time a practitioner prescribes a controlled substance for a patient.
(c) (1) No controlled substance prescription shall be issued prior to examination of the patient by the practitioner except as otherwise permitted by this subdivision.
(2) Once the initial examination has been completed, the frequency and necessity for future examinations prior to prescribing, either for the same acute or chronic condition, will be made by the practitioner utilizing generally accepted medical standards, including taking into account the drug to be prescribed and the patient's condition, history and disposition toward the use of controlled substances.
(3) In the temporary absence of the initial prescriber, an authorized practitioner may issue a controlled substance prescription for a patient as part of a continuing therapy if the practitioner:
(i) had direct access to the patient's medical records and such records warrant continued controlled substance prescribing; or
(ii) had direct and adequate consultation with the initial prescriber, who assures the necessity of continued controlled substance prescribing and with which the practitioner concurs. If the patient record is not available, the practitioner shall document the activity for his or her own record and shall transmit to the initial prescriber the prescription information. The initial prescriber shall include the prescription information in the patient's record.
(4) A practitioner may prescribe a controlled substance to his or her patient after review of the patient's record if the record contains the result of an examination performed by a consulting physician or hospital and such record warrants the prescribing.
(5) If a patient develops a new condition that would warrant the issuance of a prescription for a controlled substance, a practitioner may issue such prescription prior to performing an examination if:
(i) the prescribing practitioner has a previously established practitioner/patient relationship with the patient; and
(ii) an emergency exists; and
(iii) the prescription does not exceed a 5 day supply as determined by the directions for use. An emergency means that the immediate administration of the drug is necessary for the proper treatment of the patient and that no alternative treatment is available. If the practitioner prescribes such substance orally, the practitioner must comply with the requirements of section 80.68 and section 80.70 of this Part.

NORTH CAROLINA MEDICAL BOARD

Position Statement: Contact With Patients Before Prescribing, 11/99 (reviewed July 2010)
It is the position of the North Carolina Medical Board that prescribing drugs to an individual the prescriber has not personally examined is inappropriate except as noted in the paragraph below. Before prescribing a drug, a physician should make an informed medical judgment based on the circumstances of the situation and on his or her training and experience. Ordinarily, this will require that the physician personally perform an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan, a part of which might be a prescription. This process must be documented appropriately.

Last updated: 2/16/2012
Prescribing for a patient whom the physician has not personally examined may be suitable under certain circumstances. These may include admission orders for a newly hospitalized patient, prescribing for a patient of another physician for whom the prescriber is taking call, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment. Established patients may not require a new history and physical examination for each new prescription, depending on good medical practice.

It is the position of the Board that prescribing drugs to individuals the physician has never met based solely on answers to a set of questions, as is common in Internet or toll-free telephone prescribing, is inappropriate and unprofessional.

http://www.ncmedboard.org/position_statements/detail/contact_with_patients_before_prescribing/

### NORTH DAKOTA STATE BOARD OF MEDICAL EXAMINERS

**N.D. Cent. Code § 43-17-31**

Disciplinary action may be imposed against a physician upon any of the following grounds:

17. The prescription, sale, administration, distribution, or gift of any drug legally classified as a controlled substance or as an addictive or dangerous drug for other than medically accepted therapeutic purposes.

23. The prescribing, selling, administering, distributing, or giving to oneself or to one's spouse or child any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug.

24. The violation of any state or federal statute or regulation relating to controlled substances.

25. The imposition by another state or jurisdiction of disciplinary action against a license or other authorization to practice medicine based upon acts or conduct by the physician that would constitute grounds for disciplinary action as set forth in this section. A certified copy of the record of the action taken by the other state or jurisdiction is conclusive evidence of that action.

26. The lack of appropriate documentation in medical records for diagnosis, testing, and treatment of patients.

See also, *Jones v. North Dakota State Board of Medical Examiners*, 691 N.W.2d 251 (N.D. 2005). Board revocation of a physician’s medical license for repeatedly writing prescriptions for patients over the internet without first examining them or obtaining appropriate information.

### STATE MEDICAL BOARD OF OHIO

**Ohio Admin. Code 4731-11-09** *Prescribing to persons not seen by the physician.*

(A) Except in institutional settings, on call situations, cross coverage situations, situations involving new patients, protocol situations, and situations involving nurses practicing in accordance with standard care arrangements, as described in paragraphs (D) and (E) of this rule, a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any controlled substance to a person who the physician has never personally physically examined and diagnosed.

(B) Except in institutional settings, on call situations, cross coverage situations, situations involving new patients, protocol situations, and situations involving nurses practicing in accordance with standard care arrangements, as described in paragraphs (D) and (E) of this rule, a physician shall not prescribe, dispense, or otherwise provide, or cause to be provided, any dangerous drug which is not a controlled substance to a person who the physician has never personally physically examined and diagnosed, except in accordance with the following requirements:

1. The physician is providing care in consultation with another physician who has an ongoing professional relationship with the patient, and who has agreed to supervise the patient’s use of the drug or drugs to be provided; and

*Last updated: 2/16/2012*
(2) The physician’s care of the patient meets all applicable standards of care and all applicable statutory and regulatory requirements.

http://www.med.ohio.gov/rules/current/11-09.htm

OKLAHOMA STATE BOARD OF MEDICAL LICENSURE AND SUPERVISION

The members of the Oklahoma Medical Board have interpreted that a sufficient examination and establishment of a valid physician/patient relationship cannot take place without an initial face-to-face encounter with the patient. In other words, it requires at a minimum:
1. Verifying that the person requesting the medication is who they claim to be;
2. Establishing a diagnosis through the use of accepted medical practices such as a patient history, mental status exam, physical examination and appropriate diagnostic and laboratory testing by the prescribing physician;
3. Discussing with the patient, the diagnosis and the evidence for it, the risks and benefits of various treatment options; and
4. Insuring availability of the physician or coverage for the patient for appropriate follow-up care. Appropriate follow-up care includes a face-to-face encounter at least once a year and as often as it is necessary to insure safe continuation of medication.

Complete management of a patient by Internet, e-mail, or other forms of electronic communications is inappropriate.

http://www.okmedicalboard.org/miscFunction.php?filename=Prescribing_on_the_Internet.htm

The words “unprofessional conduct” as used in Section 481 through 514 of this title are hereby declared to include but shall not be limited to, the following:
(12) Prescribing or administering a drug or treatment without sufficient examination and the establishment of a valid physician-patient relationship.

OKLAHOMA BOARD OF OSTEOPATHIC EXAMINERS

Revised Statutes §59-622. License required - Submission to jurisdiction of courts - Employing hospitals not regarded as practitioners.
B. 1. A person within or outside of this state who performs through electronic communications diagnostic or treatment services within the scope of practice of an osteopathic physician and surgeon for any patient whose condition is being diagnosed or treated within this state shall be licensed in this state, pursuant to the provisions of the Oklahoma Osteopathic Medicine Act. However, in such cases, a nonresident osteopathic physician who, while located outside this state, consults on an irregular basis with a physician who is located in this state is not required to be licensed in this state.
2. Any osteopathic physician licensed in this state who engages in the prescription of drugs, devices, or treatments via electronic means may do so only in the context of an appropriate physician/patient relationship wherein a proper patient record is maintained including, at the minimum, a current history and physical.

OREGON BOARD OF MEDICAL EXAMINERS

The Board of Medical Examiners does not believe that current Internet technology can be used as a substitute for a face-to-face meeting between the patient and physician or for a personal physical examination.

http://www.bme.state.or.us/newsletter/FallWinter01.pdf

Last updated: 2/16/2012
The Oregon Medical Board may refuse to grant, or may suspend or revoke a license to practice for any of the following reasons:
(24) Prescribing controlled substances without a legitimate medical purpose, or prescribing controlled substances without following accepted procedures for examination of patients, or prescribing controlled substances without following accepted procedures for record keeping.

Or. Admin. R.847-025-0000
(1) A physician granted a license to practice medicine across state lines is subject to all the provisions of the Medical Practice Act (ORS Chapter 677), and to all the administrative rules of the Oregon Medical Board.
(2) A physician granted a license to practice medicine across state lines has the same duties and responsibilities and is subject to the same penalties and sanctions as any other physician licensed under ORS Chapter 677, including but not limited to the following:
(a) The physician shall establish a physician-patient relationship;
(b) The physician shall make a judgment based on some type of objective criteria upon which to diagnose, treat, correct or prescribe;
(c) The physician shall engage in all necessary practices that are in the best interest of the patient; and
(d) The physician shall refrain from writing prescriptions for medication resulting only from a sale or consultation over the Internet.

Or. Admin. R.855-019-0210
(1) A pharmacist must ensure that all prescriptions, prescription refills, and drug orders are correctly dispensed or prepared for administration in accordance with the prescribing practitioner's authorization.
(2) A pharmacist receiving a prescription is responsible for:
(a) Using professional judgment in dispensing only pursuant to a valid prescription. A pharmacist shall not dispense a prescription if the pharmacist, in their professional judgment, believes that the prescription was issued without a valid patient-practitioner relationship. In this rule, the term practitioner shall include a clinical associate of the practitioner or any other practitioner acting in the practitioner's absence. The prescription must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of their professional practice and not result solely from a questionnaire or an internet-based relationship; and
(b) Ensuring that the prescription contains all the information specified in Division 41 of this chapter of rules including the legible name and contact phone number of the prescribing practitioner for verification purposes.

Pennsylvania State Board of Medicine
Telehealth and Internet Prescribing, October 2009 Newsletter.
Currently the board does not have specific regulations addressing the parameters of how to engage in the practice of medicine over the Internet. Neither does the Board regulate the practice of the profession by specific setting, procedure, or patient condition. At this point in time, existing minimum standards of care require that prior to developing and implementing a treatment plan a physician must:
- obtain a proper medical examination and history;
- render a competent diagnostic determination;
- advise and counsel the patient on that determination;
- document the history, physical, diagnostic tests, and treatment plan; and,
The board's regulation pertaining to medical records at 49 Pa. Code § 16.95 is one indicator of this standard. Accordingly, it would be incumbent upon the physician to adhere to these parameters.
http://www.portal.state.pa.us/portal/server.pt

Last updated: 2/16/2012
RHODE ISLAND BOARD OF MEDICAL LICENSURE AND DISCIPLINE

"It is inappropriate to prescribe medications via the Internet or similar venue without an appropriate physician/patient relationship that would typically include: 1) patient history, 2) physical and/or mental health assessment, 3) legitimate records kept, 4) licensed and trained practitioners, 5) elements of informed consent wherever appropriate and reasonable, and 6) AMA/AOA code of ethics followed."
http://www.health.state.ri.us/hsr/bmld/positions.php

SOUTH CAROLINA BOARD OF MEDICAL EXAMINERS

It is unprofessional conduct for a physician to initially prescribe drugs to an individual without first establishing a proper physician-patient relationship. A proper relationship, at a minimum, requires that the physician make an informed medical judgment based on the circumstances of the situation and on his/her training and experience. This will require that the physician:
(1) Personally perform an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan. This process must be documented appropriately; and
(2) Discuss with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment options; and
(3) Insure the availability of the physician or coverage for the patient for appropriate follow-up care.
Prescribing for a patient whom the physician has not personally examined may be suitable under certain circumstances. These may include, but not be limited to, admission orders for a newly hospitalized patient, prescribing for a patient of another physician for whom the prescriber is taking call, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant or other physician extender authorized by law and supervised by the physician, or continuing medication on a short-term basis for a new patient prior to the patient’s first appointment.
Prescribing drugs to individuals the physician has never met based solely on answers to a set of questions, as is common in Internet or toll-free telephone prescribing, is inappropriate and unprofessional.
http://www.llr.state.sc.us/POL/Medical/news/Medical%20News%20Jan%202001.pdf

(A) It is unprofessional conduct for a licensee initially to prescribe drugs to an individual without first establishing a proper physician-patient relationship. A proper relationship, at a minimum, requires that the licensee make an informed medical judgment based on the circumstances of the situation and on the licensee's training and experience and that the licensee:
(1) personally perform and document an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan;
(2) discuss with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment options; and
(3) ensure the availability of the licensee or coverage for the patient for appropriate follow-up care.
(B) Notwithstanding subsection (A), a licensee may prescribe for a patient whom the licensee has not personally examined under certain circumstances including, but not limited to, writing admission orders for a newly hospitalized patient, prescribing for a patient of another licensee for whom the prescriber is taking call, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by the physician, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment.

Last updated: 2/16/2012
(C) Prescribing drugs to individuals the licensee has never personally examined based solely on answers to a set of questions is unprofessional.


A. It is unprofessional conduct for a physician to initially prescribe drugs to an individual without first establishing a proper physician-patient relationship. A proper relationship, at a minimum, requires that the physician make an informed medical judgment based on the circumstances of the situation and on his/her training and experience. This will require that the physician:
(1) Personally perform an appropriate history and physical examination, make a diagnosis, and formulate a therapeutic plan. This process must be documented appropriately; and
(2) Discuss with the patient the diagnosis and the evidence for it, and the risks and benefits of various treatment options; and
(3) Insure the availability of the physician or coverage for the patient for appropriate follow-up care.

B. Prescribing for a patient whom the physician has not personally examined may be suitable under certain circumstances. These may include, but not be limited to, admission orders for a newly hospitalized patient, prescribing for a patient of another physician for whom the prescriber is taking call, prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant or other physician extender authorized by law and supervised by the physician, or continuing medication on a short-term basis for a new patient prior to the patient's first appointment.

C. Prescribing drugs to individuals the physician has never met based solely on answers to a set of questions, as is common in Internet or toll-free telephone prescribing, is inappropriate and unprofessional.

D. Section 40-47-200(F)(8) of the South Carolina Medical Practice Act authorizes the Board to discipline a licensed South Carolina physician who is guilty of engaging in dishonorable, unethical or unprofessional conduct that is likely to deceive, defraud, or harm the public.

SOUTH DAKOTA BOARD OF MEDICAL AND OSTEOPATHIC EXAMINERS

S.D. Codified Laws § 36-4-30

The term, unprofessional or dishonorable conduct, as used in this chapter includes:
(9) Prescribing intoxicants, narcotics, barbiturates, or other habit-forming drugs to any person in quantities and under circumstances making it apparent to the board that the prescription was not made for legitimate medicinal purposes or prescribing in a manner or in amounts calculated in the opinion of the board to endanger the well-being of an individual patient or the public in general.

TENNESSEE BOARD OF MEDICAL EXAMINERS

Position Statement: Prerequisites to Prescribing or Dispensing Drugs-In Person, Electronically or Over the Internet. September 13, 2000; See also Tenn. Comp. R. & Regs 0880-02-.14 (policy statement codified)

The Board of Medical Examiners hereby states its position on the interpretation of those laws in regards to the issuance of prescriptions or dispensing of drugs to be as follows:
(1) Except as provided in paragraph (2), it shall be a prima facie violation of T.C.A. 63-6-214 (b) (1), (4), and (12) for a physician to prescribe or dispense any drug to any individual, whether in person or by electronic means or over the Internet or over telephone lines, unless the physician has first done and appropriately documented, for the person to whom a prescription is to be issued or drugs dispensed, all of the following:
(a) Performed an appropriate history and physical examination; and

Last updated: 2/16/2012
(b) Made a diagnosis based upon the examinations and all diagnostic and laboratory tests consistent with good medical care; and
(c) Formulated a therapeutic plan, along with the basis for it and the risks and benefits of various treatments options, a part of which might be the prescription or dispensing drug, with the patient; and (d) Insured availability of the physician or coverage for the patient for appropriate follow-up care.

(2) A physician may prescribe or dispense drugs for a person not in compliance with subparagraph (a) in circumstances including, but not limited to, the following:
(a) In admission orders for a newly hospitalized patient; and
(b) For a patient of another physician for whom the prescriber is taking calls; and
(c) For continuation medications on a short-term basis for a new patient prior to the patient's first appointment; and
(d) For established patients who, based on sound medical practices, the physician feels does not require a new physical examination before issuing new prescriptions.

(3) It shall be a prima facie violation of T.C.A. 63-6-214 (b) (1), (4), and (12) for physician to prescribe or dispense any drug to any individual the physician has never met based solely on answers to a set of questions regardless of whether the prescription is issued directly to the person or electronically over the Internet or telephone lines.

http://www2.state.tn.us/health/Downloads/g3010259.pdf

TEXAS STATE BOARD OF MEDICAL EXAMINERS

It is unprofessional conduct for a physician to initially prescribe any dangerous drugs or controlled substances without first establishing a proper physician-patient relationship. A proper relationship, at a minimum, requires:
(1) verifying that the person requesting the medication is in fact who they claim to be;
(2) establishing a diagnosis through the use of accepted medical practices such as a patient history, mental status exam, physical examination and appropriate diagnostic and laboratory testing;
(3) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and
(4) insuring availability of the physician or coverage for the patient for appropriate follow-up care.
An online or telephonic evaluation by questionnaire is inadequate.
http://www.tmb.state.tx.us/rules/guidelines/ipp.php

(a) Evaluation of the Patient. Physicians who utilize the Internet must ensure a proper physician-patient relationship is established that at a minimum includes:
(1) establishing that the person requesting the treatment is in fact who the person claims to be;
(2) establishing a diagnosis through the use of acceptable medical practices such as patient history, mental status examination, physical examination, and appropriate diagnostic and laboratory testing to establish diagnoses and identify underlying conditions and/or contra-indications to treatment recommended/provided;
(3) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and
(4) ensuring the availability of the physician or coverage of the patient for appropriate follow-up care.
(b) Treatment. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (face-to-face) settings. An online or telephonic evaluation by questionnaire does not constitute an acceptable standard of care.
http://www.tsbme.state.tx.us/rules/rules/174.htm

Last updated: 2/16/2012
(a) In this section:

(1) "Licensing authority" means a department, commission, board, office, or other agency of the state or a political subdivision of the state that regulates activities and persons under this title.

(2) "Internet" has the meaning assigned by Section 2002.001, Government Code.

(b) The fact that an activity occurs through the use of the Internet does not affect a licensing authority's power to regulate an activity or person that would otherwise be regulated under this title.

Tex. Occ. Code Ann. § 106.001
(a) Before dispensing a prescription, a pharmacist shall determine, in the exercise of sound professional judgment, that the prescription is a valid prescription. A pharmacist may not dispense a prescription drug if the pharmacist knows or should know that the prescription was issued on the basis of an Internet-based or telephonic consultation without a valid practitioner-patient relationship.

(b) Subsection (a) does not prohibit a pharmacist from dispensing a prescription when a valid practitioner-patient relationship is not present in an emergency.

22 Tex. Admin. Code § 174.6
(a) Telemedicine medical services provided at an established medical site may be used for all patient visits, including initial evaluations to establish a proper physician-patient relationship between a distant site provider and a patient.

22 Tex. Admin. Code § 174.8
(a) Evaluation of the Patient. Distant site providers who utilize telemedicine medical services must ensure that a proper physician-patient relationship is established which at a minimum includes:

(1) establishing that the person requesting the treatment is in fact whom he/she claims to be;

(2) establishing a diagnosis through the use of acceptable medical practices, including patient history, mental status examination, physical examination (unless not warranted by the patient's mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contraindications, or both, to treatment recommended or provided;

(3) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and

(4) ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care.

(b) Treatment. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional in-person clinical settings.

(c) An online or telephonic evaluation solely by questionnaire does not constitute an acceptable standard of care.

UTAH PHYSICIANS LICENSING BOARD

Utah Code Ann. § 58-1-501
(1) "Unlawful conduct" means conduct, by any person, that is defined as unlawful under this title and includes:

(m) unless Subsection (4) applies, issuing, or aiding and abetting in the issuance of, an order or prescription for a drug or device:

(i) without first obtaining information in the usual course of professional practice, that is sufficient to establish a diagnosis, to identify conditions, and to identify contraindications to the proposed treatment; or

(ii) based on a questionnaire completed by the patient on the internet, or toll free telephone number when there exists no other bona fide patient-practitioner relationship or bona fide referral by a practitioner involved in an existing patient-practitioner relationship.

(3) Subsections (2)(m)(i) and (ii) do not apply to treatment rendered in an emergency, on-call, or cross coverage situation.

Last updated: 2/16/2012
(4) Notwithstanding Subsections (1)(f) and (2)(m), the division may permit a person licensed to prescribe under this title to prescribe a legend drug to a person located in this state if the division in collaboration with the appropriate professional board has permitted the specific prescriptive practice of the legend drug by rule.

http://www.le.state.ut.us/~code/TITLE58/htm/58_01028.htm

Utah Admin. Code r. 58-83-305
(1) The online prescriber shall:
(a) be held to the same standards of appropriate practice as those applicable in traditional settings which, for purposes of this chapter, include the delivery of online pharmaceutical services;
(b) conduct an assessment and diagnosis based upon a comprehensive health history and an assessment tool such as a branching questionnaire;
(c) ensure that a comprehensive health history, assessment, and diagnosis have been made before prescribing any medication;
(d) conduct the online assessment and diagnosis only through the approved Internet facilitator identified in the online prescriber's application;
(e) comply with all applicable state and federal laws, rules, regulations, and orders;
(f) inform the patient electronically of the benefits and risks of appropriate treatment;
(g) guide the patient regarding the optimal course of action;
(h) treat the patient with courtesy, respect, dignity, responsiveness, and timely attention to the patient's needs;
(i) comply with the requirements for confidentiality as required by this title and applicable federal law;
(j) continue to provide the user with reasonable assistance and sufficient opportunity to make alternative arrangements for care;
(k) be available for ongoing consultation with the patient through e-mail or other forms of communication;
(l) not delegate to a third party the professional responsibility to:
(i) review and evaluate the results of the branching questionnaire;
(ii) consult with the patient electronically or through other means about the patient's medical condition; and
(iii) diagnose and prescribe medications to the patient;
(m) conduct the online assessment and diagnosis and the electronic
(n)(i) maintain the online medical records of the patient; and
(ii) if maintenance of the records is delegated by the online prescriber, delegate that authority only to the approved Internet facilitator;
(o) inform a patient of the patient's freedom of choice to select the pharmacy to dispense the patient's prescription by providing the patient with the phone number of the online contract pharmacy so that the patient may contact the online contract pharmacy and request a transfer of the prescription to another pharmacy; and
(p) authorize the Internet facilitator to provide the online contract pharmacy with the patient's:
(i) full name;
(ii) current address and telephone number;
(iii) date of birth or age and gender;
(iv) height, weight, and vital signs (if known);
(v) medication allergies or drug reactions; and
(vi) current medications, including over-the-counter products, and any additional comments relevant to the patient's drug use.
(2) The online contract pharmacy shall:
(a) only dispense prescription drugs that:
(i) are approved by the division in accordance with Section 58-83-306; and
(ii) were prescribed by an online prescriber who is using the Internet facilitator that is under contract with the online contract pharmacy;
(b) maintain a toll-free number with a pharmacist available for patients using the services of the online contract pharmacy to receive medications prescribed online;
(c) use a tracking identification number system when shipping medications prescribed for patients by an online prescriber; and
(d) provide to the division a quarterly report of all drugs dispensed in accordance with this chapter.
(3) The Internet facilitator shall:
(a) provide services that the online prescriber will use in implementing the branching questionnaire;
(b) provide electronic or telephonic communication between the online prescriber and the patient that:
   (i) is secure and confidential;
   (ii) allows the online prescriber to be directly accessible to a patient to answer questions regarding the patient's treatment plan; and
   (iii) provides privacy and security that complies with the provisions of 45 C.F.R. Parts 160, 162, and 164, Health Insurance Portability and Accountability Act of 1996;
(c) facilitate secure and confidential communication of the prescription issued by the online prescriber to the online contract pharmacy in accordance with Subsection (1)(p);
(d) disclose on its website:
   (i) the owner of the website;
   (ii) the specific services provided by any associated online prescribers; and
   (iii) other information the division may require by rule; and
(e)(i) only facilitate the delivery of online pharmaceutical services for the specific legend drugs approved by the division in accordance with Section 58-83-306; or
   (ii) not facilitate, directly or indirectly, through related entities or affiliates, the dispensing or online prescribing of any drug whether controlled or legend that is not specifically approved under Section 58-83-306.
(1) An online prescriber may only prescribe, an online contract pharmacy may only dispense, and an Internet facilitator may only facilitate the prescribing and dispensing of, non-controlled, legend drugs that have been:
(a) approved by the Food and Drug Administration;
(b) prescribed to treat the condition for which the drug was approved; and
(c) specifically approved by the division for online prescribing by administrative rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
(2) If, after January 1, 2010, the Food and Drug Administration issues a clinical black box warning with respect to any drug approved by the board under Subsection (1), the division shall determine what action, if any, is necessary to protect the public health or welfare as a result of the black box warning.

UTAH OSTEOPATHIC PHYSICIANS AND SURGEONS LICENSING BOARD

Same law applies as above.

VERMONT BOARD OF MEDICAL PRACTICE

Internet prescribing not specifically addressed by law, rule or policy; however, the Board has taken action against a physician for prescribing medication based only on Internet contact which did not meet the appropriate standard of care.

Last updated: 2/16/2012
VERMONT BOARD OF OSTEOPATHIC PHYSICIANS AND SURGEONS

See above.

VIRGINIA BOARD OF MEDICINE

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of this title. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

B. In order to determine whether a prescription that appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.

A. Any pharmacy located outside this Commonwealth which ships, mails, or delivers, in any manner, Schedule II through VI drugs or devices pursuant to a prescription into this Commonwealth shall be considered a nonresident pharmacy, shall be registered with the Board, and shall disclose to the Board all of the following:
1. The location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs or devices to residents of this Commonwealth. A report containing this information shall be made on an annual basis and within thirty days after any change of office, corporate officer, or principal pharmacist.
2. That it complies with all lawful directions and requests for information from the regulatory or licensing agency of the Commonwealth in which it is licensed as well as with all requests for information made by the Board pursuant to this section. The nonresident pharmacy shall maintain, at all times, a valid unexpired license, permit, or registration to conduct the pharmacy in compliance with the laws of the state in which it is a resident. As a prerequisite to registering with the Board, the nonresident pharmacy shall submit a copy of the most recent

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inspection report resulting from an inspection conducted by the regulatory or licensing agency of the state in which it is located.

3. That it maintains its records of prescription drugs or dangerous drugs or devices dispensed to patients in this Commonwealth so that the records are readily retrievable from the records of other drugs dispensed and provides a copy or report of such dispensing records to the Board, its authorized agents, or any agent designated by the Superintendent of the Department of State Police upon request within seven days of receipt of a request.

4. That its pharmacists do not knowingly fill or dispense a prescription for a patient in Virginia in violation of § 54.1-3303.

WASHINGTON MEDICAL QUALITY ASSURANCE COMMISSION

Guidelines for the Appropriate use of the Internet in Medical Practice

Section Three: An Appropriate Physician-Patient Relationship

The health and well being of patients depends upon a collaborative effort between physician and patient. The relationship between physician and patient is complex and is based on the mutual understanding between physician and patient of the shared responsibility for the patient’s health care. Although the Commission recognizes that it may be difficult in some circumstances, particularly in an online setting, to define precisely the beginning of the physician-patient relationship, it tends to begin when an individual seeks assistance from a physician with a health-related matter for which the physician may provide assistance. However, the relationship is clearly established when the physician agrees to undertake diagnosis and treatment of the patient and the patient agrees, whether or not there has been a personal encounter between the physician (or other supervised health care practitioner) and patient.

The physician-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the Commission that physicians recognize the obligations, responsibilities and patient rights associated with establishing and maintaining an appropriate physician-patient relationship whether or not interpersonal contact between physician and patient has occurred.

Section Five - Guidelines for the Appropriate Use of the Internet in Medical Practice

The Commission has adopted the following guidelines for physicians utilizing the Internet in the delivery of patient care:

A. Evaluation of the Patient

A documented patient evaluation, including history and physical evaluation adequate to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended/provided, must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise.

B. Treatment

Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (face-to-face) settings. Treatment, including issuing a prescription, based solely on an online questionnaire or consultation does not constitute an acceptable standard of care.

C. Electronic Communications

Written policies and procedures should be maintained for the use of patient-physician electronic mail. Such policies and procedures should address (1) privacy (2) health care personnel (in addition to the physician addressee) who will process messages (3) hours of operation (4) types of transactions that will be permitted electronically (5) required patient information to be included in the communication, such as patient name, identification number, and type of transaction (6) archival and retrieval and (7) quality oversight mechanisms. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review. Sufficient security measures must be in place and documented to assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient e-mail, prescriptions, and laboratory results must be

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secure within existing technology (i.e., password protected, encrypted electronic prescriptions, or other reliable authentication techniques). All patient-physician e-mail, as well as other patient-related electronic communications, should be stored and filed in the patient’s medical record.

Turnaround time should be established for patient-physician e-mail and medical practice sites should clearly indicate alternative form(s) of communication for urgent matters. E-mail systems should be configured to include an automatic reply to acknowledge message delivery and that messages have been read. Patients should be encouraged to confirm that they have received and read messages.

Electronic communications between a physician and a pharmacy of information concerning an original prescription or a prescription refill for a legend drug or controlled substance must comply with the requirements of RCW 69.41.055, RCW 69.50.312, and WAC 246-870. The Washington State Board of Pharmacy must approve any system of electronic communication between a physician and a pharmacy.

D. Informed Consent
A written agreement should be employed documenting patient informed consent for the use of patient-physician e-mail. The agreement should be discussed with and signed by the patient and included in the medical record. The agreement should include the following terms:
- Types of transmissions that will be permitted (prescription refills, appointment scheduling, patient education, etc.)
- Under what circumstances alternate forms of communication or office visits should be utilized
- Security measures, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy
- Hold harmless clause for information lost due to technical failures
- Requirement for express patient consent to forward patient-identifiable information to a third party
- Patient’s failure to comply with the agreement may result in physician terminating the e-mail relationship.

E. Medical Records
The medical record should include copies of all patient-related electronic communications, including patient-physician e-mail, prescriptions, laboratory and test results, evaluations and consultations, records of past care, and instructions. Informed consent agreements related to the use of e-mail should also be filed in the medical record. Patient medical records should remain current and accessible for review and be maintained in compliance with applicable state and federal requirements.

Compliance with State and Federal Laws / Rules and Web Standards
Physicians should meet or exceed applicable federal and state legal requirements of medical/health information privacy. Physicians must comply with The Uniform Health Care Information Act, RCW 70.02. Physicians are referred to “Standards for Privacy of Individually Identifiable Health Information” issued by the Department of Health and Human Services (HHS). Guidance documents are available on the HHS Office for Civil Rights web site at www.hhs.gov/ocr/hipaa.

Physicians who treat or prescribe through Internet web sites are practicing medicine and must possess appropriate licensure in all jurisdictions where patients reside.

Physicians should comply with nationally recognized health web site standards and codes of ethics, such as those promulgated by the American Medical Association, Health Ethics Initiative 2000, Health on the Net, and the American Accreditation HealthCare Commission (URAC).

F. Disclosure
Physician medical practice sites should clearly disclose:
- Owner of the site

_Last updated: 2/16/2012_
Specific services provided
Office address and contact information
Licensure and qualifications of physician(s) and associated health care providers
Fees for online consultation and services and how payment is to be made
Financial interests in any information, products, or services
Appropriate uses and limitations of the site including providing health advice and emergency health situations
Uses and response times for e-mails, electronic messages, and other communications transmitted via the site
To whom patient health information may be disclosed and for what purpose
Rights of patients with respect to patient health information
Information collected and any passive tracking mechanisms utilized

G. Advertising or Promotion of Goods or Products
Advertising or promotion of goods or products from which the physician receives direct remuneration, benefits or incentives is prohibited.

H. Links
Physician Web sites may provide links to general health information sites to enhance patient education; however, the physician should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, physicians should be aware of the implied endorsement of the information, services, or products offered from such sites.

Interpretive Statement, Winter 2001
The standard of medical practice in the state of Washington requires a physician, when prescribing medication, to (1) verify that the person requesting the medication is in fact who he or she claims to be; (2) establish a diagnosis through the use of accepted medical practices such as a patient interview, physical examination, and appropriate ancillary testing; (3) discuss with the patient the diagnosis and the evidence for it, as well as the risks and benefits of various treatment options; (4) ensure availability of the physician to review the course and efficacy of the treatment to assess therapeutic outcome; and (5) maintain a contemporaneous medical record that is readily available to the patient and to other health care professionals. The Commission recognizes exceptions in certain circumstances such as emergency, public health, or cross coverage situations. A physician who prescribes medication based solely on electronic communication via the Internet does not meet the standard of medical practice above. The Commission considers this practice unprofessional conduct pursuant to RCW 18.130.180(4), and subjects the physician to disciplinary action.


WEST VIRGINIA BOARD OF MEDICINE

12.2 Acts declared to constitute dishonorable, unethical or unprofessional conduct. As used in this rule at section 12.1e, "Dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof" includes, but is not limited to:
k. A practice of providing treatment recommendations relating to issuing prescriptions, via electronic or other means, for persons without establishing an on-going physician-patient relationship wherein the physician has obtained information adequate to support the prescription: Provided, That this definition does not apply: in a documented emergency; or in an on-call or cross coverage situation; or where patient care is rendered in consultation with another physician who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including use of any prescribed medications.
http://www.wvsos.com/csrdocs/worddocs/11-01A.doc

Last updated: 2/16/2012
WEST VIRGINIA BOARD OF OSTEOPATHY

See above.

WISCONSIN MEDICAL EXAMINING BOARD

Internet prescribing not specifically addressed by law, rule or policy.

WYOMING BOARD OF MEDICINE

(a) The board may refuse to renew, and may revoke, suspend or restrict a license or take another disciplinary action, including the imposition of conditions or restrictions upon a license on one (1) or more of the following grounds:
(xxxiii) Initially prescribing any controlled substance specified in W.S. 35-7-1016 through 35-7-1022 for any person through the Internet, the World Wide Web or a similar proprietary or common carrier electronic system absent a documented physician-patient relationship;

(b) The board is empowered and directed to:
(xix) adopt rules and regulations for the practice of telemedicine.

PUERTO RICO BOARD OF MEDICAL LICENSURE AND DISCIPLINE

P.R. Laws Ann. tit. 20 § 407.
(ss) Prescribing professional. Medicine doctor, physician, ondontologist, dentist, podiatrist, or veterinarian authorized to practice the profession in Puerto Rico, who issues a prescription so that the patient with whom he/she maintains a valid professional relationship receives the drugs.
(yy) Doctor-patient relationship.— It is that action through which a physician, as described in subsection (vv) above, assumes or has assumed the responsibility of performing an evaluation or clinical determination regarding the patient's health. He/she determines the need for medical treatment based on the general or preliminary diagnosis of the medical condition which calls for said treatment and proves to be available for follow-up treatment in case of an adverse reaction or failure in the therapeutic regime. Being it understood that a valid professional relationship may not be established solely by phone or electronic means.