

**MYTH: The same privacy rules apply to virtual telehealth consultations as to in-person visits.****FACT: The privacy rules for virtual telehealth consultations may differ depending on the state.**

Generally speaking, issues regarding privacy and confidentiality in health care are not necessarily different for a virtual consultation (telehealth) as compared to an in-person visit. As with conventional medicine, a telehealth provider has the same duty to safeguard a patient's medical records and keep his/her treatments confidential. Storage of electronic files, images, audio/video tapes etc., in a telehealth context is indeed subject to the HIPAA privacy rule and needs to be done with the same precaution and care ascribed to paper or electronic documents related to in-person visits.

Telehealth does, however, create an additional legal consideration when the patient and provider are physically located in different states. Because state laws that are more restrictive than HIPAA regarding the exchange of protected health information (PHI) (i.e., genetic and mental health PHI) must be followed in addition to HIPAA, privacy and confidentiality issues with respect to virtual consultations will be governed by both the HIPAA privacy rule and the applicable state law in which the provider (not the patient) is located.

Moreover, telehealth also requires the requisite expansion of manpower to manage an electronic system, with an increased number of people who have potential access to a patient's records. Telehealth requires a technical staff to run the

system that is completely independent from the medical team, and therefore must have the appropriate security safeguards to protect patient PHI. Protocols must be strictly followed to ensure that patients are informed about all participants in a telemedicine consultation and that the privacy and confidentiality of the patient are maintained, as well as ensuring the integrity of any data/images transmitted. This requires the use of clear contracts between organizations and providers to ensure regulatory compliance, navigate risks that come with implementing telehealth practices, provide high quality care, and minimize liability.

Patients may also be skeptical about the use of video images and the idea of "unseen persons" during their exams. However, these concerns over the technology can be addressed through a combination of legal, technical, and administrative security measures and patient education.

**For More Information:**

- [See](#) our resources on privacy and confidentiality.
- [Learn](#) about telehealth.

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