



## Telemedicine License/Out-of-State Care Options for LA-Licensed Physicians in ARK-LA-TEX/ARK-LA-MISS Areas & Florida as of 2022<sup>1</sup>

Prior to the pandemic, many states' medical licensing boards did not anticipate the widespread usage of telemedicine across state lines. Therefore, telemedicine regulations in those states did not address this need. When federal regulatory changes enabled greater access and reimbursement for telemedicine across state lines, many states issued temporary rulings to accommodate usage during the pandemic and while under a public health emergency. As time has gone by and the emergency has ended, many states have revised their guidelines and licensing requirements.

Each state's medical licensing board still dictates the rules for how telemedicine will be provided to patients who are located in their state at the time medical services are provided. These licensing requirements must be adhered to for a physician to be considered "licensed" to provide telemedicine to patients who are located outside of Louisiana at the time of service—even if the patient is regularly seen in an office in Louisiana. Some states do make a distinction between follow up/episodic care and "new" services but the definitions between the two are vague. Below are charts that outline the requirements in surrounding states along with exceptions to the requirement.

### Legal Disclaimer

This reference was compiled by Adrien Busekist, Partner, Watson, Blanche, Wilson & Posner, LLP  
The information provided here is not intended to constitute legal advice. All information here is for general informational purposes only. Information here regarding state licensure may not constitute the most up-to-date information. Please consult the board of medical examiners for each state and/or your counsel for the most up to date statute(s), rule(s) and/or regulation(s) regarding that particular state's physician/provider licensing.

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<sup>1</sup> In general, each state maintains an interest in assuring that physicians providing care to its citizens are duly licensed in its state. This is balanced with an interest in expanding care options in states that have a significant gap in health care coverage by reason of extensive rural populations, a problem that was exacerbated in the wake of Covid-19 pandemic care challenges. The Interstate Medical Licensing Compact (IMLC) was established to address this and other issues. Of note, a physician's membership/licensing with the IMLC does not immediately confer a license in other participating states. Rather, it provides him/her with a fast track to obtain license in participating states.

## Telemedicine/Out-of-State Care by State Where Patient is Located:

### LOUISIANA PATIENT

<b>Out of state physician licensing<sup>2</sup></b>	Telemedicine fully permitted; may need full licensure if intending to supervise mid-level located in LA. Specifically telemedicine license is only for out-of-state providers.
<b>Exceptions to requirement of full state licensure</b>	Emergency only, see Emergency Licensing.
<b>Telemedicine only option availability?</b>	Yes, may get separate telemedicine license, full state license not required. Licensee cannot have physical practice in LA.
<b>Interstate Medical Licensing Compact Membership (state is participant/provides fast track for IMLC member to obtain state licensure)</b>	Yes.
<b>Notes on mid-levels</b>	See Emergency License/Covid-19 note.
<b>Emergency licensing &amp; Covid-19 options</b>	LAC Sec. 412 allows an emergency temporary license to physicians and mid-levels providing <i>free</i> care in LA. There is a 60-day limit that may be extended. <i>This is concluding in June 2021 for those such licenses issued for COVID-19 Emergency based on 90-day grace period provided following close of Governor's Emergency Order 3/16/22.</i>
<b>Telemedicine care limitations/Rx</b>	Physician may prescribe via telemedicine as long as patient exam done (can be via telemedicine). Physician holding only LA Telemedicine license cannot be collaborator for LA mid-level. <sup>3</sup>
<b>Relevant definitions</b>	Telemedicine is delivery of care, diagnosis, consultation, transfer of medical data and/or treatment of any patient by a physician via interactive, two-way audio and/or visual media.

<sup>2</sup> Every state also has temporary licensing framework (not tied to Covid-19) for licensees in the application period, participating in a post-grad program in their state, impaired physician limited, etc. These are not detailed here.

<sup>3</sup> Exceptions are when physician is consulted by mid-level in emergency (one-off situation) or for PEC/CEC.

## Telemedicine/Out-of-State Care by State Where Patient is Located:

### MISSISSIPPI PATIENT

<b>Out of state physician licensing</b>	No separate Telemedicine license; must have full MS license. See mid-levels, however. <sup>4</sup>
<b>Exceptions to requirement of full state licensure</b>	Out-of-state physician's interpretation of tests and pathology is not "telemedicine" if provided to MS licensed physician.
<b>Telemedicine only option availability?</b>	No. Need full unrestricted MS license. See definition of prohibited Telemedicine below.
<b>Interstate Medical Licensing Compact Membership (state is participant/provides fast track for IMLC member to obtain state licensure)</b>	Yes.
<b>Notes on mid-levels</b>	MS licensed physician who is out of state may be able to collaborate with mid-level in hospital setting (emergency, inpatient, outpatient) via telemedicine. MS Board of Medical Examiners provides for discretionary application process for this. License is granted upon consideration of factors such as community need for care and location of physician relative to location of mid-level.
<b>Emergency licensing &amp; Covid-19 options</b>	No. MS stopped authorizing emergency licenses relative to Covid-19 as of 5/1/2020.
<b>Telemedicine care limitations/Rx</b>	Out-of-state prescribing discouraged but allowed via telemedicine if provider has seen patient in person or via telemedicine commensurate with in person exam; no pain management practice outside state of MS for MS patients is permitted.
<b>Relevant definitions</b>	"Practice of Medicine" via "Telemedicine" by out-of-state physician is specifically prohibited unless physician is licensed in MS and includes rendering an opinion relative to diagnosis, treatment of a patient in MS via electronic means.

<sup>4</sup>There is a miscellaneous application option with the MS State Board with no specific criteria, at discretion of Board.

## Telemedicine/Out-of-State Care by State Where Patient is Located:

### TEXAS PATIENT

<b>Out of state physician licensing</b>	Specifically, Telemedicine license is only for out of state providers. Allows MD to report testing interpretation and results to a licensed TX physician or <b>follow up on patients where care mostly provided outside state of TX</b> . Telemedicine licensees subject to TX Medical Practice Act, licensing fees, and other licensing requirements. <sup>5</sup>
<b>Telemedicine only option availability</b>	Yes, may get telemedicine license, but care may be limited. Safest option is full state licensure.
<b>Interstate Medical Licensing Compact Membership (state is participant/provides fast track for IMLC member to obtain state licensure)</b>	As of March 2022, TX is full participant and accepting applications via IMLC membership to obtain TX licenses.
<b>Emergency licensing &amp; Covid-19 options</b>	Emergency temporary license <b>only for mid-levels with TX licensed collaborating physician</b> . Mid-level must have full unrestricted license in another state. Does not include Nurse Practitioners. This license extended with 30-day grace period at end of Governor’s Emergency Order.
<b>Telemedicine care limitations/Rx</b>	Telemedicine licensed physician may continue previous scheduled narcotics medications to established pain management patients, patient must see physician via Telemedicine within the last 90 days.
<b>Relevant definitions</b>	“Practicing Medicine” is diagnosis, treatment, curing/offering to cure any mental or physical, disease, disorder, deformity by any system or method and by any person who professes to be a physician and/or requires compensation for their service(s) in doing so.  “Telemedicine” is any care provided where the provider and patient are not located physically in the same place.

<sup>5</sup> I would not consider this, based on wording of licensure statutes/rules, a license allowing Telemedicine physician to provide full panoply of care in manner of TX based and licensed physician. The phraseology of “following patient” may allow for some gray areas to stretch this, but it is clear the statute means for the Telemedicine MD “following up” to be primarily providing care to patient out of state. It is recommended that, if physician wants to have an ongoing Telemedicine practice with continually out of state patient (and no in-person care), the physician obtain full TX licensure.

## Telemedicine/Out-of-State Care by State Where Patient is Located:

### ARKANSAS PATIENT

<b>Out of state physician licensing</b>	Out of state MD (includes interpretation of imaging and pathology) to AR patient must be fully licensed.
<b>Exceptions to requirement of full state licensure</b>	Out of state physician is physically seeing patient out of state. <sup>6</sup> Out of state physician is providing "only episodic consultation services."
<b>Telemedicine only option availability</b>	No. Need full unrestricted state license.
<b>Interstate Medical Licensing Compact Membership (state is participant/provides fast track for IMLC member to obtain state licensure)</b>	No.
<b>Emergency licensing &amp; Covid-19 options</b>	Not tied to Covid-19, but state board provides miscellaneous application ability for a temporary license that is only good until next meeting of the state board. License
<b>Telemedicine care limitations/Rx</b>	MD providing care via Telemedicine cannot prescribe controlled substances unless provider sees patient in person at some point or this is part of "ongoing care." <sup>7</sup>
<b>Relevant definitions</b>	"Telemedicine" is use of electronic information and communication technology to assess, diagnose, consult, treat, educate, manage care, of a patient, including via store and forward technology and including remotely monitoring a patient.

<sup>6</sup> This is the import of every other state's out of state MD licensing rules, AR appears to have directly clarified this in their statutory set up for licensing MDs.

<sup>7</sup> Unclear what is meant by "ongoing care," although arguably could include situation with patient going back and forth across state lines. Still have to have full AR license if patient is AR resident/domiciliary receiving care in AR.

Telemedicine/Out-of-State Care by State Where Patient is Located:

**FLORIDA PATIENT**

<b>Out of state physician licensing</b>	No out of state licensing of physicians except for Telehealth.
<b>Interstate Medical Licensing Compact Membership</b>	Does not participate in IMLCM.
<b>Telemedicine only option availability</b>	Yes. Out of state physician <sup>8</sup> may apply for Telehealth license to provide Telehealth to FL residents. Physician must (1) hold unencumbered license in another state; (2) appoint an agent for service of process in the state of FL; (3) maintain liability coverage equal to or surpassing FL standards; (4) have no office/physical presence in FL to treat patients; (5) register with FL State Board of Medical Examiners as an Out of State Telehealth provider.
<b>Telemedicine limitations/Rx</b>	Telehealth physician cannot use telehealth to prescribe controlled substances unless for psychiatric treatment, hospital inpatient, hospice patient, or nursing home patient.
<b>Relevant Definitions</b>	“Telehealth” <b>does not include care provided solely via telephone.</b> Must be care provided via video and audio combination with two way communication. Additionally, care that is specifically excepted from “Telehealth” licensing requirements includes care provided “in an emergency,” and certain care provided to pregnant women who may be in labor.

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<sup>8</sup> Telehealth licensing for out of state providers also extends to non-physicians, including mid-levels, who hold an unencumbered license in their specialty and meet these same requirements.