

Ability to Use Telehealth in Michigan for Veterinary Professionals

Gov. Whitmer recently implemented State Executive Order 2020-21, *Temporary requirement to suspend activities that are not necessary to sustain or protect life*. As a result of this Executive Order, which highlights the need to conserve personal protective equipment, veterinarians licensed in Michigan are asking how they can effectively and legally practice veterinary medicine using telehealth – especially given the demands on the profession’s workforce and the ongoing need to provide veterinary care. Below, we provide some guidance to help you practice effectively during the remainder of this order.

Do veterinarians need to establish a VCPR before they can conduct a telemedicine appointment?

Although most states require a veterinarian to perform an in-person animal examination or a premises visit to develop a veterinarian client patient relationship, Michigan does not have such a requirement. According to Michigan Licensing and Regulatory Affairs, the general provisions of the Michigan Public Health Code allow a health professional to provide a telehealth service after obtaining consent for treatment.

What do telehealth and telemedicine mean?

"Telehealth" means the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Telehealth may include, but is not limited to, telemedicine.

"Telemedicine" means the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under this section, the health care professional must be able to examine the patient via a real-time, interactive audio or video – or both – telecommunications system, and the patient must be able to interact with the off-site health care professional at the time the services are provided. It is defined in section 3476 of the insurance code of 1956, 1956 PA 218, [MCL 500.3476](#).

Veterinarians must meet jurisdictional and federal requirements while prescribing medications. In Michigan, a health professional may prescribe a drug, including a controlled substance, to a patient through telehealth if appropriately licensed. [Section 333.16285](#)

What other factors should a veterinarian consider?

It is important for a veterinarian to consider other relevant state laws and regulations, federal laws and regulations, and the potential for malpractice suits while practicing with the use of telehealth. The Michigan veterinarian should consider that any non-essential procedures increase the liability risk, and any change in practice modalities should be recommended or allowed by state authority.

Do veterinarians still need to comply with medical record requirements?

Yes, Michigan veterinarians need to maintain medical records for each patient.

“A veterinarian who practices veterinary medicine in this state shall maintain a medical record for each patient that accurately reflects the veterinarian's evaluation and treatment of the patient. Entries in the patient record shall be made in a timely fashion.” (Mich. Admin. Code R. 338.4921(1).

Additionally, in Rule 21, there is a clear requirement that the results of a physical exam and a list of abnormal findings are to be included in the record:

“Results of the physical examination and a list of abnormal findings.” (Mich. Admin. Code R. 338.4921(1)(g).)

Can a Michigan veterinarian legally prescribe medications through the use of telemedicine?

Since Michigan does not require a VCPR, a veterinarian needs to comply with the federal definition of the VCPR when issuing prescriptions in accordance with the Veterinary Feed Directive (VFD) and Animal Medicinal Drug Use Clarification Act (AMDUCA) of 1994. Under 21 CFR 530.3(i), a valid VCPR must be present for extra-label drug use, veterinary feed directives, and customized biologics.

A valid VCPR is defined in this section as one in which:

1. A veterinarian has assumed the responsibility for making medical judgments regarding the health of (an) animal(s) and the need for medical treatment, and the client (the owner of the animal or animals or other caretaker) has agreed to follow the instructions of the veterinarian;
2. There is sufficient knowledge of the animal(s) by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal(s); and
3. The practice veterinarian is readily available for follow-up in case of adverse reactions or failure of the regime of therapy. Such a relationship can exist only when the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal(s), and by medically appropriate and timely visits to the premises where the animal(s) are kept.

However, on March 24, 2020 the U.S. Food and Drug Administration (FDA) issued guidance that temporarily suspends the enforcement of a portion of the federal VCPR requirements. Specifically, the FDA generally intends not to enforce the animal examination and premises visit VCPR requirements relevant to FDA regulations governing Extralabel Drug Use in Animals (21 CFR part 530) and Veterinary Feed Directive Drugs (21 CFR 558.6).

It is important for veterinarians in Michigan to note that 21 CFR 530.5 contains language detailing the requirements for a medical record in the context of extra-label drug use, VFDs and some biologics. There is no mention in the guidance that these requirements have been suspended and should still be followed. See the statute below:

§ 530.5 Veterinary records.

(a) As a condition of extralabel use permitted under this part, to permit FDA to ascertain any extralabel use or intended extralabel use of drugs that the agency has determined may present a risk to the public health, veterinarians shall maintain the following records of extralabel uses. Such records shall be legible, documented in an accurate and timely manner, and be readily accessible to permit prompt retrieval of information. Such records shall be adequate to substantiate the identification of the animals and shall be maintained either as individual records or, in food animal practices, on a group, herd, flock, or per-client basis. Records shall be adequate to provide the following information:

- 1) The established name of the drug and its active ingredient, or if formulated from more than one ingredient, the established name of each ingredient;
- 2) the condition treated;
- 3) the species of the treated animal (s);
- 4) the dosage administered;
- 5) the duration of treatment;
- 6) the numbers of animals treated; and
- 7) the specified withdrawal, withholding, or discard time(s), if applicable, for meat, milk, eggs, or any food which might be derived from any food animals treated.

(b) a veterinarian shall keep all required records for two years or as otherwise required by federal or state law, whichever is greater;

(c) any person who is in charge, control, or custody of such records shall, upon request of a person designated by FDA, permit such person designated by FDA to, at all reasonable times, have access to, permit copying, and verifying such records.

Does this change to the FDA VCPR requirements now allow a Michigan licensed veterinarian to provide care and prescriptions for a patient even if they have not performed a physical examination?

Since Michigan does not have a requirement for a VCPR and the FDA has temporarily suspended enforcement of a portion of the federal VCPR requirements that require an animal examination or premises visit, these changes seem to now permit a veterinarian to provide care for a patient she has not examined or premises she has not visited to occur.

Can a licensed Michigan veterinarian provide telemedicine services to a patient that resides in another state?

If a veterinarian wants to conduct telemedicine consults across state lines, the veterinarian should be licensed both in the state where (s)he is located and the state where the patient is located.

Is there currently any guidance available on best practices for telemedicine and telehealth?

The AVMA website has resources to support your use of telemedicine. You can find tools at avma.org/Telemedicine, including steps to implement connected care and information about technology options.

The American Association for Veterinary State Board Telehealth Guidelines are available at aavsb.org

[Equine Veterinary Telemedicine Q&A with Dr. Mike Pownall](#)

[Video: Implementing Telemedicine in 24 Hours in Your Practice](#) – Indiana Veterinary Medical Association

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