

DEPARTMENT OF CONSUMER AFFAIRS
Title 16. Acupuncture Board

PROPOSED REGULATORY LANGUAGE
Standards of Practice for Telehealth Services

Legend:	Added text is indicated with an <u>underline</u> . Omitted text is indicated by (* * * *) Deleted text is indicated by strikeout .
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Add Section 1399.452.1 of Article 5 of Division 13.7 of Title 16 of the California Code of Regulations to read:

§1399.452.1. Standards of Practice for Telehealth Services.

A licensee is permitted to provide acupuncture services listed in section 4937 of the Business and Professions Code (“acupuncture services”), via telehealth as defined in Section 2290.5 of the Code, to a patient physically located in California, subject to the following conditions:

- (a) The licensee shall hold a current, active, and unrestricted license issued by the Board.
- (b) Before the delivery of acupuncture services via telehealth, the licensee shall determine that delivery of acupuncture services via telehealth is appropriate after considering at least the following factors:
 - (1) The licensee’s ability to obtain, confirm, or determine a diagnosis and/or prescribe treatment to a patient in a telehealth setting;
 - (2) The patient’s diagnosis, symptoms, and medical history;
 - (3) The patient’s preference for receiving acupuncture services via telehealth;
 - (4) The nature of the acupuncture services to be provided, including anticipated benefits, risks, and constraints resulting from their delivery via telehealth; and,
 - (5) The licensee’s competency to deliver such services based upon whether the licensee possesses the appropriate knowledge, skills, and abilities relating to delivery of acupuncture services via telehealth, the information technology chosen for the delivery of telehealth services, and how such services might differ from those delivered in person.
- (c) Prior to the delivery of acupuncture services via telehealth, the licensee shall inform the patient of the use of telehealth, provide the disclosures set forth in this subsection, and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering acupuncture services in compliance

with this section and Section 2290.5 of the Code (“informed consent”). Such informed consent shall be obtained only after the licensee provides disclosures to the patient regarding concerns unique to the receipt of acupuncture services, via telehealth, including the following:

- (1) Potential risks and limitations of receiving acupuncture services via telehealth;
 - (2) Risks to patient confidentiality and information security;
 - (3) Any data storage policies and procedures specific to telehealth;
 - (4) The possibility of disruption and/or interruption of service due to technological failure;
 - (5) Insurance coverage considerations; and
 - (6) Other issues that the licensee can reasonably anticipate regarding the advantages and disadvantages between acupuncture services delivered in person and those delivered via telehealth.
- (d) If the patient’s consent is verbal, the licensee shall note in the patient’s medical record a description of the disclosures made in compliance with subsection (c) and date(s) on which the disclosures were provided to, and the verbal informed consent obtained from, the patient or the patient’s representative, as described in subsection (c). If the patient’s consent is written, the licensee shall retain a written copy in the patient’s medical records of the acknowledgement of receipt of the disclosures required by subsection (c) and informed consent to the use of telehealth as an acceptable mode of delivering acupuncture services that is signed and dated by the patient or the patient’s representative.
- (e) Upon initiation of telehealth services, a licensee shall provide the patient with their name and license number.
- (f) The licensee shall take reasonable steps to ensure that electronic data is transmitted securely and shall inform the patient immediately of any known data breach or unauthorized dissemination of data.
- (g) In providing telehealth services, the licensee shall comply with all other provisions of the Acupuncture Licensure Act, Acupuncture regulations, and all other applicable provisions of law and standards of care in this state related to the practice of acupuncture. Pursuant to Section 4955 of the Code, failure to comply with this section constitutes unprofessional conduct.

Authority: Sections 2290.5 and 4933, Business and Professions Code

Reference: Sections 686, 2290.5, 4927, 4937 and 4955, Business and Professions Code.