A 2023 update on virtual care in Canada

June 28, 2023

This article was originally published in April 2023.

In June 2021, we published an article on cross-border telemedicine with the Canadian Medical Association, containing helpful tips and best practices for health care providers seeking to enter the virtual care market in Canada.[1] In the short time since our last publication there have been many changes in this space. While we are still seeing a patchwork of rules across the provinces and territories with respect to virtual care, many different stakeholders, including physicians, patients and even the Competition Bureau of Canada, are calling on the need for uniformity, reducing barriers and increasing access to virtual care.[2] Much of this discussion is generated by the ever-changing provincial rules governing virtual care and the goal of improving access to healthcare services in Canada while reducing the cost burden on the public healthcare system.

Virtual care providers have continuously had to pivot and adapt to changing rules and guidelines. Prior to the COVID-19 pandemic, private virtual care services outpaced publicly funded options for virtual care. This is because virtual care was generally considered an uninsured service, allowing physicians to charge privately for the provision of these services, including through private business to consumer and business to employer models of virtual care. However, in response to the COVID-19 pandemic, many jurisdictions (including Ontario) amended their billing rules to enable physicians to bill the public healthcare system for virtual care.[3] Since physicians are prohibited from charging for the provision of insured services or engaging in any "extra-billing", private virtual care providers were forced to shift their business models to ensure compliance with changing regulatory frameworks.

Once again, virtual care providers in Ontario had to pivot to accommodate changes in the provincial governments funding and payment models for virtual care. On December 1, 2022, temporary COVID-19 billing codes expired and were replaced by a new virtual care funding framework, based on the Physician Services Agreement between the Ministry of Health and the Ontario Medical Association.[4] Under this framework, physicians are permitted to bill OHIP 100 per cent of the in-person fee for some video visits but only if they have an ongoing or existing physician-patient relationship, such as seeing the patient in person at some point in the last two years. However, if the patient has not been seen in person by the physician, physicians may only charge $20 for a video visit and $15 for a telephone visit. This discrepancy in funding per visit disrupted

many of the business models of virtual care providers. To continue to operate, providers had to reconsider how they offer their services.

Changes have been made not only in how services are funded, but also in how providers are licensed to provide care across the country. The table below summarizes the licensing requirements for physicians and nurses when providing cross-border virtual care.

Please note that this chart is accurate as of April 2023.

Province	**Profession**	**What does the jurisdiction – where the professional is licensed – say about its licensee providing virtual care to patients in an away jurisdiction?**	**What does the jurisdiction say about a non-jurisdictional professional providing virtual care to its residents/patients?**
Alberta	Physicians[5]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required. An out-of-province physician who does not hold a valid and active practice permit with CPSA may provide virtual care to a patient located in Alberta: • if the care sought is not readily available in Alberta (*e.g.*, specialty care); • to provide follow-up care or continuity of care for which an established physician-patient relationship exists; or • if the virtual care encounter is for emergency assessment or treatment of

			the patient where there are no other care options available.
	Nurses[6]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required.
British Columbia	Physicians[7]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration not required.
	Nurses[8]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required.
Manitoba	Physicians[9]	Comply with the requirements of the jurisdiction in which the patient is located. Physicians registered in the jurisdiction can practice medicine and treat patients virtually in Nunavut without obtaining a licence to practice medicine in Nunavut.	Registration required.
	Nurses[10]	Comply with the requirements of the jurisdiction in which the patient is located.	May provide nursing care only by telepractice under the following conditions: • The RN maintains registration in another Canadian jurisdiction in good standing; • The RN identifies their full name, membership class, and

			jurisdiction of Canadian licensure to the client as part of the informed consent process; • The RN is able to meet all requirements of their Canadian licensing jurisdiction when engaging in the telepractice; • The RN abides by all relevant federal and Manitoba legislation for the services provided by telepractice; and • The RN does not physically enter Manitoba for the purposes of providing RN services.
New Brunswick	Physicians[11]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required if not on the Atlantic Registry. In addition, those without a licence in the jurisdiction may be registered on a Virtual Care Provider list (which has requirements) by completing a form and registering such with the College.
	Nurses[12]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required.

Newfoundland and Labrador	Physicians[13]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration not required.
	Nurses[14]	Registration not required. Note, however, that registration is required to order tests if patient is located in the province.	
Northwest Territories	Physicians[15]	No information available.	No information available.
	Nurses[16]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required.
Nova Scotia	Physicians[17]	Comply with the standards of the jurisdiction in which the patient is located.	Registration not required, but held to the standards of the jurisdiction in which the physician is licensed.
	Nurses[18]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration not required.
Nunavut	Physicians[19]	No information available.	No information available. Certain providers from Manitoba, Alberta, Northwest Territories, and Ontario are able to provide care to patients in the jurisdiction.
	Nurses[20]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required.

	Physicians[21]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required, unless the provision of virtual care from a physician licensed elsewhere is in the patient's best interest; for example, the care sought is: • not readily available in Ontario (*e.g.*, specialty care); • provided within an existing physician-patient relationship and intended to bridge a gap in care; or • for urgent or emergency assessment or treatment of a patient.
	Nurses[22]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required.
Prince Edward Island	Physicians[23]	Comply with the requirements of that jurisdiction and the home jurisdiction.	Registration required if not on the Atlantic Registry, except for physicians who: • Have been consulted or are working in collaboration with a registered Island physician/Nurse Practitioner. • Are providing virtual care for emergency situations.

			• Are providing follow-up of a previously assessed patient. • Are providing off-Island test interpretation, (examples would be EEG's, pathology, etc.). • Work with Poison Control. • Work as a consultant in Genetics. • Are seeing federal employees as per a national program and are fully registered with a different jurisdiction within Canada.
	Nurses[24]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required.
Québec	Physicians[25]	Comply with the requirements of the jurisdiction in which the patient is located.	A special authorization may be granted to allow a physician who is legally authorized to practice outside of Québec the right to practice virtual care in a limited way within Québec.
	Nurses[26]	No information available.	No information available.
Saskatchewan	Physicians[27]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required, but the jurisdiction offers a telemedicine licence to physicians

			who practice in the jurisdiction only by telemedicine. Physicians are exempt from registration if they only provide follow-up care to patients who the physicians has seen in their home province.
	Nurses[28]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required.
Yukon	Physicians[29]	Comply with the requirements of the jurisdiction in which the patient is located.	Registration required, unless the physician is a specialist providing care in consultation with a primary care provider or within their scope of practice to patients who do not have a primary care provider.
	Nurses[30]	No information available.	No information available.

While there is currently not a consistent licensing approach across the provinces and territories, it appears we may slowly be getting closer to pan-Canadian licensure.[31] On May 1, 2023, the Council of Atlantic Premiers recently implemented a new physician register.[32] The register allows physicians who have their primary practice in an Atlantic province and who hold a licence issued by one of the four Atlantic provinces to practice in any of the four Atlantic provinces without any additional licensing requirements. Additionally, Québec has updated its licensing requirements under its Professional Code to allow physicians legally authorized to practice outside of Québec the right to provide virtual care to patients located in Québec on a limited basis, upon issuance of a special authorization, subject to restrictions.[33]

On May 18, 2023, Royal Assent for *Your Health Act, 2023* (Ontario) (the Act) was also received. The Act introduces as-of-right licensing, which would allow healthcare professionals who are licensed in other provinces and territories in Canada to practice in Ontario, without needing an additional approval or licence, subject to certain conditions. When the Ontario Provincial government first announced as-of-right licensing, it appeared as though it would have broad applicability and would allow for the expansion of services such as virtual care to Ontarians by healthcare professionals licensed elsewhere in Canada. However, proposed regulations under the Act released on June 9, 2023 indicate that this may not be the case. Instead, the proposed regulations restrict the applicability of as-of-right licensing by making it only available as

a temporary measure to certain healthcare professionals who have applied for licensure in Ontario and who only provide professional services in or on behalf of an Ontario public hospital, the University of Ottawa Heart Institute, or a long-term care home. Stakeholders should continue to monitor the status of the Act and the proposed regulations for any changes, as many sections of the Act have not yet been proclaimed in force and the Provincial government is seeking feedback on the proposed regulations until July 9, 2023.

Tips and best practices for physicians when practicing virtual care across provincial borders

Physicians, companies, and others looking to provide virtual healthcare services should still consider and follow the tips and best practices we previously outlined. Physicians should:

- make sure virtual care is appropriate for the patient given the nature of the consult, the patient's condition and the limitations of technology in that context;
- make sure they have liability protection and confirm the patient's location will not impact their protection;
- be aware of the governing standards and guidelines concerning virtual care, including privacy and security, consent, documentation and online prescribing;
- track out-of-province virtual care encounters and justifications for providing such care when necessary;
- inform themselves of the local resources where the patient is located to ensure continuity of care; and
- maintain detailed and up-to-date records for all virtual care encounters in the same way in-person interactions would be documented.

Physicians and other regulated health professionals should always keep their obligations in mind when charging for uninsured services and/or setting fees for their services. There are both legislative and College policy requirements that dictate how health care providers should charge for their services and how they can be compensated.

Despite the varying landscape, we expect that virtual care is here to stay in Canada, with room to grow and creative ways of offering virtual care services. In one survey, 70 per cent of respondents said they believe virtual care improves patient access and enables quality care and efficient care for patients.[34] The Canadian Medical Association reported that in May 2020, 91 per cent of Canadians surveyed were satisfied or very satisfied with their virtual care, and among those who consult a physician once a year, half would prefer virtual care to be their first point of contact.[35]

Special thanks to BLG articling student Bailey McMaster for her research assistance.

Footnotes

[1] Louise Sweatman & Christine Laviolette, "Cross-Canada virtual licensure requirements and best practices," BLG publication, June 25, 2021

[2] "Digital Health Care Market Study," Competition Bureau of Canada, January 20, 2022.

[3] "Physician billing codes in response to COVID-19," Canadian Institute for Health Information, April 19, 2022.

[4] "Bulletin 221203 — Virtual Health Care in Ontario," Government of Ontario, December 20, 2022.

[5] "Virtual Care – Standard of Practice," College of Physicians and Surgeons of Alberta, 2022, January 1.

[6] "Telepractice and Virtual Care," College of Registered Nurses of Alberta, December 2020.

[7] "Practice Standard – Virtual Care," College of Physicians and Surgeons of British Columbia, May 6, 2022.

[8] "Virtual Care," British Columbia College of Nurses and Midwives.

[9] "Standard of Practice – Virtual Medicine,". (2022, September 29). The College of Physicians and Surgeons of Manitoba.

[10] "Telepractice,"College of Registered Nurses of Manitoba, April 2021.

[11] "Guideline – Virtual Medicine," College of Physicians and Surgeons of New Brunswick, February 2022.

[12] "Guideline for Telenursing Practice," Nurses Association of New Brunswick, February 2023.

[13] "Standards of Practice – Virtual Care," College of Physicians and Surgeons of Newfoundland and Labrador, March 17, 2021.

[14] "Fact Sheet – Virtual Nursing Licensure Requirements," College of Registered Nurses of Newfoundland and Labrador, September 2022.

[15] "Applying for the First Time for a Medical Licence in the NWT,"Health and Social Services – Government of Northwest Territories.

[16] "Telehealth FAQ," Registered Nurses Association of the Northwest Territories and Nunavut.

[17] "Virtual Care – Professional Standards Regarding Virtual Care," College of Physicians and Surgeons of Nova Scotia, May 28, 2021.

[18] "Practice Guidelines for Nurses – Telenursing," Nova Scotia College of Nursing, February 2023.

[19] "License and Registration," Nu Physicians.

[20] "Telehealth FAQ". (No Date). Registered Nurses Association of the Northwest Territories and Nunavut.

[21] "Policy – Virtual Care,". (2022, June). College of Physicians and Surgeons of Ontario, Juin 2022.

[22] "Practice Guideline – Telepractice,"College of Nurses of Ontario, June 2020.

[23] "Standard of Practice – Virtual Care," The College of Physicians and Surgeons of Prince Edward Island, December 19, 2022.

[24] "Practice Directive – Teleheath Nursing Practice," College of Registered Nurses of Prince Edward Island, December 2019.

[25] "Special Authorization – Telemedicine and other activities," Collège des médecins du Québec, March 29, 2022.

[26] Ordre des infirmières et infirmiers du Québec.

[27] "Policy: The Practice of Telemedicine," College of Physicians and Surgeons of Saskatchewan, November 2019.

[28] "Telehealth Nursing Practice," College of Registered Nurses of Saskatchewan, August 2, 2019.

[29] "Standard of Practice – Telemedicine (Virtual Care)," Yukon Medical Council, March 18, 2022

[30] Yukon Registered Nurses Association

[31] Pan-Canadian licensure is defined as the ability for physicians with full licences to practise independently without restrictions or for medical resident trainees registered in any Canadian jurisdiction to practise or train in any other Canadian jurisdiction without having to acquire more than one license or pay additional licensing fees.

[32] "Premiers Discuss Health, Immigration, Labour and Housing Priorities – The Council of Atlantic Premiers," Council of Atlantic Premiers, February 20, 2023.

[33] "Special authorization – Telemedicine and other activities," Collège des médecins du Québec, March 29, 2022.

[34] "Virtual Care in Canada: Progress and Potential – Report of the Virtual Care Task Force," Virtual Care Taskforce, February 2022.

[35] "What Canadians Think About Virtual Health Care – Nationwide Survey Results,". Canadian Medical Association & Abacus Data, May 2020.

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