

## Teleradiology: You May Be Breaking the Law

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As technology advances and demand for high-quality, efficient healthcare increases, teleradiology continues to be a bustling field of medicine and a fertile territory for laws. Teleradiology is a branch of telemedicine that involves the electronic transmission of radiological patient images (i.e., x-rays, MRIs, CTs) from one location to another location for the purpose of interpretation and consultation by radiologists who are not physically present at the transmitting location.

Since teleradiology involves the transmission of patient data potentially across state lines, radiologists must be aware of state laws governing the practice of medicine and in particular, laws specific to telemedicine and teleradiology. Consider the situation when a patient's x-rays are taken in State A, but are then electronically sent to the radiologist for interpretation in State B. Is the radiologist required to be licensed to practice medicine in both State A and State B? How about licensure in State A but not State B, or vice versa? The answers to these questions depend on the laws in the transmitting state (State A) and the receiving state (State B).

In general, state laws take one of the following three approaches to state medical licensure:

### **1. The radiologist must be licensed to practice medicine in both the transmitting state and the receiving state.**

In these states, the state medical boards consider the radiologist to be practicing medicine in the transmitting state, although the radiologist him/herself did not physically enter the state to perform the interpretation. New Hampshire is an example of a state which requires dual licensure:

*"Any out-of-state physician providing radiological services who performs radiological diagnostic evaluations or interpretations for New Hampshire patients by means of teleradiology shall be deemed to be in the practice of medicine and shall be required to be licensed under this chapter."*

Similar laws exist in Connecticut and West Virginia, among other states.

### **2. The radiologist must be licensed to practice medicine in the receiving state and obtain a special certificate to engage in telemedicine from the transmitting state.**

In these states, radiologists who are licensed to practice medicine in the receiving state are permitted to practice teleradiology under the more limited restrictions of a specialized or telemedicine license or certificate. The Montana Board of Medical Examiners, for example, issues telemedicine certificates to out-of-state physicians so long as he or she: (i) has a full, active, unrestricted license to practice medicine in another state, (ii) is board-certified or board-eligible, (iii) has no history of disciplinary action or limitation imposed by a state or federal agency, (iv) is not subject to a pending state medical board or federal agency investigation, (v) has no criminal history related to the practice of medicine, (vi) has sufficient levels of malpractice insurance, (vii) has not paid on more than three malpractice claims in the last five years, (viii) has an agent in Montana for service of process in the event he or she is sued, (ix) has paid the telemedicine application fee and (x) has submitted a sworn statement that he or she agrees to abide, and be bound by, Montana's laws governing the practice of medicine.

New Mexico is another example of a state that issues a special telemedicine license to enable out-of-state physicians to practice telemedicine across state lines.

### **3. The radiologist must be licensed to practice medicine in both states, although the state laws provide broad exceptions that permit certain activities in certain circumstances.**

Minnesota and Mississippi are examples of states that require the physician to be licensed to practice medicine in the transmitting state, but provide exceptions when state licensure in the transmitting state is not required. Typical exceptions are made for emergency circumstances and when teleradiology interpretations or consultations are done on an infrequent basis.



Here is Mississippi's statute:

Rule:

*"Except as hereinafter provided, no person shall engage in the practice of medicine across state lines (telemedicine) in this state, hold himself out as qualified to do the same, or use any title, word or abbreviation to indicate to or induce others to believe that he is duly licensed to practice medicine across state lines in this state unless he has first obtained a license to do so from the [Mississippi] State Board of Medical Licensure and has met all educational and licensure requirements as determined by the [Mississippi] State Board of Medical Licensure."*

Exception:

*"The requirement of licensure as set forth ... above shall not be required where the evaluation, treatment and/or the medical opinion to be rendered by a physician outside this state (a) is requested by a physician duly licensed to practice medicine in this state, and (b) the physician who has requested such evaluation, treatment and/or medical opinion has already established a doctor/patient relationship with the patient to be evaluated and/or treated."*

If you are currently engaging in the practice of teleradiology over state lines or are considering exploring this area of medicine, it is imperative to consult with a healthcare attorney knowledgeable of the laws in both the transmitting state and the receiving state to ensure you are complying with the laws in all states involved.

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