

Nurse Practitioner Telehealth Functional Medicine vs. Coaching (Laws & Legal)

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In today's video, we are going to combine three different threads: a Nurse Practitioner wants to start a functional medicine practice, via telehealth, multi-state, and she wants to call it "coaching."

Hi, I'm Michael H. Cohen, founding attorney of Cohen Healthcare Law Group. We help healthcare industry clients just like you, navigate healthcare and FDA legal issues so you can launch, or grow and scale your healthcare business.

The first piece here is you have an NP. While Nurse Practitioners typically do have a lot of practice autonomy, and we know that, normally there must at least be some collaborative relationship with a physician. Granted, "collaboration" is less than "supervision." The point is, though, there is a medical doctor somewhere in the picture, and there is a legal agreement between the two that has to satisfy the requirements of State law for collaboration agreements between MDs and NPs.

The next piece is telehealth. As we know, while the legal map for telehealth varies by State, there are some common elements across most States. Normally, a fax or email is not considered "telehealth," so while it might be subject to HIPAA, it's not subject to telemedicine rules.

Then, in telehealth, the standard of care is the same as for in-person healthcare practice. So, practitioners must follow that standard of care. And healthcare providers who are not MDs or DOs must practice within their standard of care and scope of practice as well.

We also know that typically, the practitioner must do certain things to "establish" the patient relationship. This can involve, for example, verifying the identity of the patient and also, ensuring that the patient has the ability to verify the identity and licensing status of the healthcare provider.

In many states, the physician-patient or NP-patient relationship can be established virtually, as long as these criteria are satisfied, and the communication includes visual as well as audio. Informed consent must be given and documented.

In some states, prior to prescribing, the provider must perform a medical interview sufficient to establish an informed diagnosis, it has to be as good as if the provider had performed an in-person physical examination. And an online questionnaire alone is not considered enough, it's "static", it's insufficient.

The supervising or collaborative physician must be available in person or electronically to consult if and as needed.

If you dig more deeply into the statutes and regulations, you will also typically find a prohibition against advertising or promoting goods or services in which the healthcare provider has a financial interest. The telehealth portal can link to

education and information, as long as there's no profit for the licensee.

Please look to our other videos for more drill-down on legal issues relevant to a functional medicine practice, or to telehealth and other issues.

Thanks for watching. If you still have questions, give us a call, [contact us](#) via our website. We have helped so many healthcare industry clients on their journey to business success and we look forward to working with you too.

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