Frequently Asked Questions (FAQs): Virtual Care

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1. Who are “Ontario patients”?

In this FAQ document, “Ontario patients” refers to patients who:

- are in, or are seeking to be in, a dentist-patient relationship with an Ontario dentist; and
- reside in Ontario; or
- are geographically (i.e., physically) located in Ontario when the virtual care is delivered.¹

¹ Professional Liability Program (PLP) staff are currently working with the insurer to finalize the definition of “Ontario patient” and this FAQ will be updated accordingly, as necessary.
2. What is “virtual care”?

“Virtual care”, also known as “teledentistry”, includes but is not limited to the use of electronic information, imaging, communication, and patient engagement technology to provide and support dental care delivery remotely.

Virtual care can be provided in a number of ways, including, as examples:

- **Live video (synchronous)**: Live, two-way interaction between a person (patient, caregiver, or provider) and a provider using audiovisual communication technology.

- **Store-and-forward (asynchronous)**: Transmission of recorded health information (e.g., radiographs, photographs, video, digital impressions, and photomicrographs of patients) through a secure electronic communications system to a provider, who uses the information to evaluate a patient’s condition or render a service outside of a real-time or live interaction.

- **Remote patient monitoring (RPM)**: Personal health and medical data collection from an individual in one location via electronic communication technology, which is transmitted to a provider (sometimes via a data processing service) in a different location for use in care and related support of care.

- **Patient engagement technology**: Health self-management, communication, and education tools or services that are available to patients on demand. These virtual tools or services can give patients the ability to complete routine tasks related to their health care when it works for them.

- **Mobile health (mHealth)**: Health care and public health practice and education supported by mobile communication devices, such as cell phones, tablet computers, and personal digital assistants (PDAs).

Some dental services that may be offered virtually include:

- screening and triage of patients to decide if they will benefit from education, advice, instruction, prescriptions, referrals, or an in-person appointment;

- assessment or evaluation of patients (e.g., for new or existing conditions), diagnosis, and provision of dental care;

- follow-up management of patients, including post-operative appointments or monitoring of patients; and

- consultation appointments between patients and their general dentist and/or specialist.

3. Is the quality of care delivered virtually different from in-person, hands-on care dental care?

No. Ontario dentists must deliver the same high quality dental care virtually. Ontario dentists are required to meet the standard of care and all of the same legal, professional, and ethical obligations that apply to in-person, hands-on dental care. If Ontario dentists determine they would not be able to meet the same standard and obligations virtually, it would be inappropriate to provide virtual care.
4. How can the patient’s identity be verified and authenticated virtually?

Ontario dentists are required to take reasonable steps to verify and authenticate the patient’s identity before the patient’s personal health information (PHI) is exchanged. The steps Ontario dentists can take in order to satisfy this requirement may vary, depending on the nature of interaction and whether they have an existing dentist-patient relationship with the patient. For example:

- For synchronous dental care delivered via audio communication technology, Ontario dentists could ask the patient for two or more identifiers (e.g., date of birth, address, health card number).²
- For synchronous dental care delivered via video communication technology, Ontario dentists could ask patients to hold up a piece of valid government-issued photo ID to the camera. This may not be necessary if the dentist already knows the patient by sight.³
- For asynchronous dental care delivered via electronic communication technology, Ontario dentists could use some form of coded identification (e.g. patient number).⁴

5. What legal obligations do Ontario dentists have with respect to privacy and security when providing virtual care?

The existing legal obligations with respect to privacy and security that apply to in-person, hands-on dental care also apply to virtual care. Ontario dentists’ specific obligations are set out in the Personal Health Information Protection Act, 2004 (PHIPA)⁵ and some key obligations are highlighted below.

As health information custodians, Ontario dentists are responsible for ensuring that all staff and other agents acting on their behalf are aware of the requirements for maintaining the privacy and confidentiality of patient’s PHI set out in PHIPA. This includes, but is not limited to:

- only collecting, accessing, using, and disclosing PHI with the consent of the patient or as permitted or required by PHIPA;
- not collecting, accessing, using, and disclosing PHI if other information will serve the purpose;
- not collecting, accessing, using, or disclosing more PHI than is reasonably necessary to meet the purpose;

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• taking reasonable steps to ensure PHI in their custody or control is protected against theft, loss and unauthorized use or disclosure, and that the records containing PHI are protected against unauthorized copying, modification or disposal; and

• ensuring that PHI in their custody or control are retained, transferred, and disposed of in a secure manner.

The Information and Privacy Commissioner of Ontario (IPC) has published the following document to help health care providers who are health information custodians understand and comply with their legal obligations when using virtual care: Privacy and Security Considerations for Virtual Health Care Visits: Guidelines for the Health Sector. The guidance includes the following steps to enhance privacy and security in virtual health care:

• Conduct privacy impact assessments\(^6\) to identify and manage the specific privacy and security risks associated with virtual health care.

• Develop and implement a virtual health care policy that:
  o addresses the purposes for which virtual care may be used in their office, any conditions or restrictions in doing so, and the administrative, technical and physical safeguards that will be in place; and
  o explicitly states that staff and other agents acting on their behalf will have access to only the minimum amount of PHI necessary to perform their duties.

• Ensure that staff and other agents acting on their behalf participate in ongoing privacy and security training, including training on their office’s virtual health care policy.

• Have a robust security management framework to regularly monitor, assess, and mitigate any security risks that may arise in the use of virtual health care.
  o The framework must include the required administrative, technical, and physical safeguards expected of staff and other agents acting on their behalf, as well as any third-party service provider of portals.

• Have a privacy breach management protocol that sets out requirements for identification, reporting, containment, notification, investigation, and remediation of actual and suspected privacy breaches.

• Report privacy breaches at the first reasonable opportunity to affected individuals and, in certain situations, to the IPC.\(^7\)

6. Do patients have to consent to the use of a virtual modality?

Yes. Consent is required for the delivery of care using a virtual modality. The consent process includes informing patients about the benefits, limitations, and potential risks of using the virtual

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\(^6\) For more information about conducting a privacy impact assessment, refer to the IPC’s Privacy Impact Assessment Guidelines for the Ontario Personal Health Information Protection Act, as well as the IPC’s Planning for Success: Privacy Impact Assessment Guide.

\(^7\) For more information about what to do when there is a privacy breach, refer to the IPC’s Responding to a Health Privacy Breach: Guidelines for the Health Sector and Reporting a Privacy Breach to the IPC: Guidelines for the Health Sector.
modality, including those related to privacy and any clinical limitations, and any associated costs.

The IPC’s Privacy and Security Considerations for Virtual Health Care Visits: Guidelines for the Health Sector includes the following examples of limitations and risks related to privacy: potential privacy breaches resulting from physical or electronic eavesdropping, hacking, and software exploits; technical failures; and configuration errors.

The consent that is required for using a virtual modality is separate from the consent process for any proposed treatment. Consent for treatment requirements are set out in the Health Care Consent Act, 1996 and on the RCDSO’s Informed Consent webpage.

7. Can Ontario dentists charge a fee for virtual care?

Yes. Regardless of how dental care is delivered (e.g., in-person or virtual), Ontario dentists may charge a fee for the care that they provide. The RCDSO does not set fees for dental care however the Professional Misconduct regulation enacted under the Dentistry Act, 1991 states that it is an act of professional misconduct to charge fees that are excessive or unreasonable.

8. What considerations are relevant when Ontario dentists choose technology solutions that are provided by a third-party?

The IPC’s document, Privacy and Security Considerations for Virtual Health Care Visits: Guidelines for the Health Sector, provides guidance to health care providers who are health care custodians on this very topic. The guidance includes:

- Ensure, through contractual agreements, that the service provider complies with the privacy and security measure to satisfy the requirements set out in PHIPA. The service provider should agree to:
  - Immediately notify the custodian in the event of a privacy breach,
  - Undergo periodic security audits at the request of the Ontario dentist,
  - Restrict access to PHI by employees or any person acting on their behalf on a need-to-know basis; and
  - Securely return or destroy PHI at the end of the agreement.

- Do not engage the services of providers that require, as a condition of service, that:
  - individuals register with the service provider; or
  - accept terms of service and privacy policies that require collection, use, or disclosure of personal information or PHI for purposes unrelated to the Ontario dentists’ provision of dental care.

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9. Where can I find information about technology solutions that are appropriate for clinical use?

To assist health care providers in selecting technology that is appropriate for clinical use, Ontario Health has established a provincial standard and launched a verification process for virtual care solutions. For a list of verified virtual visit solutions (i.e., videoconferencing and secure messaging solutions that comply with provincial requirements), see Ontario Health’s website.

10. Can Ontario dentists provide virtual care to Ontario patients when the dentist is geographically (i.e., physically) located outside of Ontario?

Yes, in circumstances where they can meet the requirements set out in the Virtual Care Standard. Ontario dentists who are geographically located outside of Ontario may treat Ontario patients provided that they can meet the standard of care and all relevant legal, professional, and ethical obligations, including those obligations set out in the Virtual Care Standard. However, licensing requirements vary between jurisdictions and some jurisdictions may require licensure if the Ontario dentist, or the Ontario patient, is geographically located in their jurisdiction when the care is provided. Ontario dentists will need to be aware of, and comply with, any applicable licensing requirements and professional obligations in the jurisdiction.

Ontario dentists will need to ensure that they have appropriate liability protection for the virtual care they provide. Ontario dentists are covered by the RCDSO’s professional liability program (PLP) for professional services provided virtually to Ontario patients when the dentist is located outside Ontario.

Figure 1: RCDSO expectations when the Ontario dentist is geographically located outside of Ontario

<table>
<thead>
<tr>
<th>Dentist outside of ON</th>
<th>Dentist + Patient outside of ON</th>
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<tbody>
<tr>
<td><strong>Licensure</strong></td>
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<tr>
<td>Ontario + any licensing requirements of the jurisdiction where the dentist is located</td>
<td>Ontario + any licensing requirement of the jurisdictions where the dentist and patient are</td>
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<tr>
<td><strong>Obligations</strong></td>
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<tr>
<td>RCDSO + any obligations in the jurisdiction where the dentist is located (whichever highest)</td>
<td>RCDSO + any obligations in the jurisdictions where the dentist and patient are (whichever highest)</td>
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<tr>
<td><strong>Standard of Care</strong></td>
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<td>Highest standard</td>
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<td><strong>Liability</strong></td>
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<tr>
<td>Protected if Ontario patient</td>
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</table>
11. **Can Ontario dentists provide virtual care to patients who are geographically (i.e., physically) located outside of Ontario?**

Yes, in circumstances where they can meet the requirements set out in the Virtual Care Standard. Ontario dentists may treat patients who are geographically located outside of Ontario provided that they can meet the standard of care and all relevant legal, professional, and ethical obligations, including those obligations set out in the Virtual Care Standard. However, some jurisdictions may require licensure if the Ontario dentist, or the patient, is geographically located in their jurisdiction when the care is provided. Ontario dentists will need to be aware of, and comply, with any applicable licensing requirements and professional obligations in the jurisdiction.

Ontario dentists will need to ensure that they have appropriate liability protection for the virtual care they provide. Ontario dentists are covered by the RCDSO’s professional liability program (PLP) when Ontario dentists are located in Ontario for professional services provided virtually to any patient, or if the Ontario dentist is not located in Ontario, for professional services provided virtually to Ontario patients.

**Figure 2: RCDSO expectations when the patient is geographically located outside of Ontario**

<table>
<thead>
<tr>
<th>Licensure</th>
<th>Dentist in ON Patient outside of ON</th>
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<tr>
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<tr>
<th>Liability</th>
<th>Dentist in ON Patient outside of ON</th>
<th>Dentist + Patient outside of ON</th>
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<tbody>
<tr>
<td>Protected for ANY patient</td>
<td>Protected if Ontario patient</td>
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</tbody>
</table>
12. Do out-of-province dentists need to be licensed by the RCDSO in order to provide virtual care to Ontario patients? What does this mean for Ontario patients?

No. Out-of-province dentists do not need to be licensed by the RCDSO\textsuperscript{10}, but in order to practise dentistry, out-of-province dentists would need to be licensed in the jurisdiction in which they are geographically located.

It is important for patients to seek dental care from a dentist who is licensed. If seeking virtual care from an out-of-province dentist, Ontario patients will want to ask the dentist where they are licensed. If the dentist is not licensed in Ontario, this means that the dentist is not subject to the RCDSO’s requirements, including the requirement to practice in accordance with the standard of care in Ontario, and oversight. Ontario patients should be aware that not every jurisdiction requires licensure prior to allowing dentists to practice and the standard of care and oversight can vary significantly across jurisdictions.

If Ontario patients have concerns about dental care delivered by out-of-province dentists, they will need to contact the dental regulator in the jurisdiction where the dentist is licensed.

If the RCDSO becomes aware of concerns about virtual care provided to an Ontario patient by an out-of-province dentist who is not an RCDSO member, it may share that information with the regulatory authority that has jurisdiction over the dentist, or with other agencies, so that appropriate action can be taken by that regulatory authority or agency.

13. Can Ontario dentists consult with out-of-province dentists virtually or refer patients to out-of-province dentists for virtual care?

Yes, Ontario dentists may make a referral to an out-of-province dentist for consultation and/or treatment purposes provided that Ontario dentists meet the existing obligations for consultations and referrals set out in the RCDSO’s Most Responsible Dentist Practice Advisory and Dental Recordkeeping Guidelines. These existing obligations can be applied in the virtual care context by, for example:

- Making an appropriate referral to a dentist with the required expertise (e.g., this may be an out-of-province dentist if there is no Ontario dentist who can provide the opinion or care within the recommended timeframe);

- Helping patients understand:
  - the reason, nature, and scope of the referral (e.g., how they came to the determination that a referral to an out-of-province dentist is recommended, and the procedures and protocols involved);
  - the anticipated outcome of the referral and the potential risks/consequences of refusing the referral recommendation (e.g., a referral to an Ontario dentist may result in a longer wait time); and

\textsuperscript{10} The RCDSO does not have the legal authority to require and enforce licensure.
the credentials of the referral dentist (e.g., what training or expertise they have, which jurisdiction(s) they are licensed in, and if the out-of-province dentist is not licensed in Ontario, that the RCDSO does not have regulatory oversight over any dental care that is delivered).

- Confirming the patient is in agreement with the referral recommendation and obtaining the patient’s consent before sending any information to another dentist (e.g., before making a referral to an out-of-province dentist); and
- Ensuring the patient’s PHI is appropriately safeguarded when it is shared virtually with the referral dentist.

Ontario dentists are reminded that if they rely on an opinion provided by an out-of-province dentist, Ontario dentists are still obligated to meet the standard of care in Ontario and are required to obtain the patient’s valid consent\(^{1}\) for any treatment proposed on the basis of the opinion.

14. Can technology be used by Ontario dentists to supervise dental care provided by other oral health care providers?

Yes, in specific circumstances. RCDSO’s Standard of Practice on the Performance of Intra-Oral Procedures that are Not Controlled Acts by Preventive Dental Assistants, Level II Dental Assistants and Registered Dental Hygienist requires that Ontario dentists provide the appropriate level of supervision for intra-oral procedures provided by preventative dental assistants, level II dental assistants, and registered dental hygienists. For some intra-oral procedures, supervision may occur remotely using technology, and other intra-oral procedures require that the dentist be physically present in the office to supervise.

See Appendix 3 in the Standard for a chart that summarizes the intra-oral procedures and corresponding supervision requirements.

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