HRA Telemedicine Guidelines

Definition

“The remote delivery of health care services and clinical information using telecommunications technology. This includes a wide array of clinical services using internet, wireless, satellite, and telephone media.”¹ Physicians should be aware that telemedicine may be synchronous or asynchronous. In the former, patient and provider communicate real-time, and so may be used for emergent, urgent and elective care. In asynchronous telemedicine, healthcare data such as imaging and laboratory results, may be sent to a provider who can use such data for diagnosis at a future date. Remote monitoring, where data is collected by patients, such as home blood sugar measurement, and then sent to a provider, may be synchronous or asynchronous.

HIC Coverage

HIC coverage responds to allegations of medical negligence. This includes telemedicine services.

Licensing Requirements

Licensing requirements vary by state. Providers not in compliance with state statutes could be subject to disciplinary action by medical boards and/or professional medical societies. Practicing without a state level medical license is a criminal offense in many states. Physicians interested in practicing via telemedicine in multiple states should be aware of The Interstate Medical Licensure Compact (IMLC). Currently, the IMLC is an agreement between 29 states, the District of Columbia and Territory of Guam, where physicians are licensed by 43 different Medical and Osteopathic Boards. Under this agreement licensed physicians can qualify to practice medicine across state lines within the Compact if they meet the agreed upon eligibility requirements. As of December 2019, New York State is not a member of the ILMCC.

Physician Requirements and Standards

Telemedicine practitioners should provide patients with informed consent prior to any telemedicine encounter. This discussion, and documentation of same, should include:²

1. Any state specific requirements
2. The names and credentials of other staff who may be participating
3. Explanation of the patient’s right to stop or refuse treatment by telemedicine
4. The technology that will be used
5. Privacy and security risks as well as measures taken to reduce the risk
6. Technology specific risks such as service interruption and poor transmission quality
7. Permission to bill as applicable

8. Instructions for alternative care in case of an emergency or technology malfunction

Physicians should be aware that some states have specific telemedicine regulations that increase physician requirements and standards when performing telemedicine such as informed consent, medical records, internet advertising, quality of care, or prescribing medication, especially requirements for prescribing controlled substances, which may require an in-person exam. For providers with Medicare patients, a separate set of telemedicine requirements must be met to qualify for reimbursement.

Establishing Physician-Patient Relationship

State requirements concerning establishing physician-patient relationships vary. While some states require an in-person visit for the initial encounter; other states may allow telemedicine regardless of how the initial encounter was made or make exceptions for specific circumstances (e.g. emergency treatment) or specialties.

Documentation

Recording the telemedicine encounter is a vital element of the patient record and can prove essential in any litigation. In addition, the practitioner should be sure that all electronic transmissions comply with the privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA).

Other Considerations

If telemedicine is a significant portion of a practice, consider membership in the American Telemedicine Association.

Certain aspects of telemedicine practice are either less common, or not found at all in a traditional practice. These may include:

1. Insurance coverage for cyber-liability, and business interruption
2. Need for Business Associate Agreements with other parties involved in patient care
3. Being sure the patient is located in an appropriate environment (both location and others who may be in proximity)

Telemedicine practitioners might wish to consult the American Medical Association (AMA) guidelines for ethical issues in telemedicine, as well as their specialty Board for discipline-specific guidelines.

A practitioner considering expanding his/her practice to include telemedicine should report this to HIC. This helps HIC to understand the scope and type of services that are provided and to respond with modifications to coverage and policies, as needed. As with all HIC policies, the majority of practice should be in New York State.

We are available to answer your risk management or underwriting questions.

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