



What Are My Risks as a Telehealth Provider?

Telehealth & Telemedicine Crash Course

July 18, 2017

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Presented by



Francesca R. Ozinal

Associate

fozinal@ebglaw.com

Tel: 202-861-1862

This Webinar Will Answer Three Questions:



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- What are some of the unique malpractice issues that a telehealth provider faces?
 - What jurisdictional issues should telehealth providers consider?
 - How might telehealth providers limit their exposure to liability?



Question 1: What are some of the unique malpractice issues that a telehealth provider faces?

Telehealth Informed Consent

- Does my state require informed consent?
- What are the standards of care?

Licensure

- Will I be able to confirm patient location?
- Does my insurance policy contain licensure exclusions?

Supervision

- When is it medically appropriate to supervise other practitioners via telehealth modalities?
- What about supervision of machines and devices that provide medical services?

Technology and Privacy

- Can I rely on telehealth technologies to consistently and appropriately provide health care related services?
- How do I authenticate the patient's identity?



Practice Standards and Protocols

- Is telehealth sufficiently different from usual care as to require its own protocols and standards?
- Do established guidelines exist?

Physician-Patient Relationship

- How is it defined for purposes of scope of practice?
- How is it defined in relation to liability claims?

International Telehealth

- Will I be covered while providing services internationally?
- Who has jurisdiction over international telehealth services?

Scope of practice

- Am I engaging in the “practice of medicine” outside of traditional scopes of practice?
- How are states working to redefine a provider's scope of practice with respect to providers' use of advanced technologies and telehealth?

Question 2: What jurisdictional issues should telehealth providers consider?



- What questions will courts consider in the context of a malpractice action involving the provision of telehealth services across state lines?
 - Can patients exercise jurisdiction in their home state over physicians located in another state? In another country?
 - Must a plaintiff file suit in the state in which the physician is physically located?
 - Which states' substantive law applies when the physician and patient are located in different states?



Question 3: How might telehealth providers limit their exposure to liability?



The who, when, how, what, where, and why of professional liability insurance

- The who
 - Protection for all health care providers and the health care entity on a shared basis
- The when
 - Purchase coverage at the inception of the business before patient encounters commence
 - Or when providers start providing care via telemedicine
- The how
 - Requires careful due diligence by telehealth providers
 - Consider engaging an insurance broker
- The what
 - A policy with broad language
 - “Incident reporting” language
 - No exclusions specific to licensure
- The where
 - Broad coverage
 - Protection against international exposure
- The why
 - To protect against liability losses

Questions?



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Upcoming Webinars

Telehealth & Telemedicine Crash Course Series



- **Can I Prescribe to Patients via Telehealth?**

Tuesday, July 25 at 2:00 – 2:15 p.m. ET

Presenter: Theresa E. Thompson

To register, please visit: <http://www.ebglaw.com/events/>

Thank you.