What Are My Risks as a Telehealth Provider?

Telehealth & Telemedicine Crash Course

July 18, 2017
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This Webinar Will Answer Three Questions:

- 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/](http://www.ebglaw.com/events/)
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