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Telemedicine: Protecting Patients, Expanding Access

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August 9, 2019

Medical Board of California Quarterly Board Meeting
Burlingame, California



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Current FSMB Model Policy Guidance

- **Defining “Telemedicine”:**

- The practice of medicine using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. Practice is deemed to occur where the patient is located.
- Generally, telemedicine is not an audio-only telephone conversation, email/instant messaging conversation, or fax.
- It typically involves the application of secure videoconferencing or store-and-forward technology to provide or support health care delivery by replicating the interaction of a traditional, in-person encounter between a provider and a patient.



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FSMB and Telemedicine

- **Evolving FSMB regulatory policy and guidance for the regulation of telemedicine**
 - *Model Act for the Practice of Medicine Across State Lines* (1998)
 - *Model Guidelines for the Use of the Internet in Medical Practice* (2002)
 - *Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine* (2014)
- **Federal grants to support license portability**
 - Uniform Licensure Application (UA)
 - Technical enhancements to Federation Credentials Verification Service (FCVS)
 - Expedited licensure endorsement policies
 - Interstate Medical Licensure Compact (IMLC)
 - License Portability for Physician Assistants (new)

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Telemedicine: Benefits and Challenges

- **Benefits:** Increased access to care and services, expanded utilization of specialty expertise, management of chronic disease, improvement of health outcomes, and reduction of costs.
- **Challenges:**
 - Maintaining the same level of patient protection afforded by the current state-based regulatory system . . . ensuring patient safety, accountability, consensus as to standard of care, and privacy
 - Conflicting state regulatory statutes, reimbursement, licensure, credentialing, privileging, broadband connectivity

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Addressing Challenges and Barriers

- **Policy Harmonization**
 - FSMB's State Medical Boards Appropriate Regulation of Telemedicine Workgroup (SMART Workgroup)
 - Develop model guidelines in evaluating the appropriateness of care as related to the use of telemedicine between a physician in one location and a patient in another, with or without an intervening health care provider
 - FSMB Workgroup on Telemedicine Consultations
 - Inform state medical boards about the types of consultations and regulatory frameworks for the oversight of physicians who offer consulting services via telemedicine technologies
- **License Portability**
 - The Interstate Medical Licensure Compact - a feasible mechanism to facilitate multistate practice, including telemedicine across state lines.

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Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (2014)

- **A guidance document for state medical boards that is intended to lessen regulatory barriers to expanding telemedicine while protecting public health and safety.**
 - Regulating the use of telemedicine technologies in the practice of medicine
 - Educating licensees as to the appropriate standards of care when delivering health care services directly to patients via telemedicine
 - Although written primarily for physicians, it is in large part also applicable to physician assistants or other health professionals who may be regulated by the state medical board
 - Supported by regulatory, professional and private sectors

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Model Policy Guidelines

- **Physicians providing care electronically or otherwise should:**
 - Place patients' welfare **first**
 - Maintain acceptable standards of practice
 - Comply with recognized professional codes of conduct
- **Patient-physician relationship is established upon agreement for diagnosis and treatment:**
 - Whether or not there has been an in-person encounter
 - The same standard of care applies



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Model Policy Guidelines

- **Medical Licensure**
 - Physician is under the jurisdiction of the state where the patient is located
 - **The practice of medicine occurs where the patient is located** at the time that telemedicine technologies are used
- **Evaluation and Treatment**
 - Physician must collect relevant clinical history prior to treatment
 - Treatment held to same standards of appropriate practice as in traditional (in-person) setting
- **Informed Consent**
 - Types of transmissions permitted using telemedicine technologies
 - Patient agrees that the physician determines condition(s) for a telemedicine encounter
 - Details on security and potential security risks



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Model Policy Guidelines

- **Prescribing**
 - Same level of professional accountability as prescriptions delivered during an in-person encounter
 - Sole use of online questionnaire is not acceptable
- **Continuity of Care**
 - Physicians providing services solely using telemedicine with no existing relationship prior to the encounter must make documentation of the encounter easily available and any patient identified care provider immediately following the encounter.
- **Disclosures and Functionality**
 - Contact information
 - Fees
 - Uses and response time for messages and other communications

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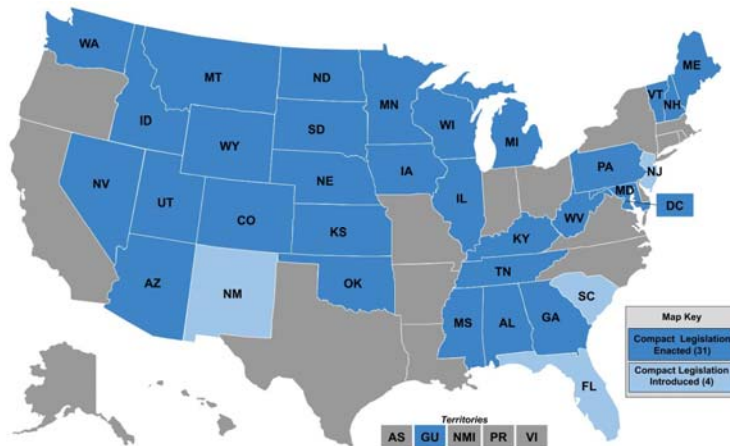
Health Care Delivery – a changing paradigm

- **Growth of telemedicine and advancing technologies**
- **Consumer demand/employer recruiting/retention incentive**
- **Demand for cost/quality efficiencies**
- **Workforce disparities/access to care/addiction treatment**
- **Integration of health care delivery systems**
- **Increase in multistate practice**
 - 953,695 licensed physicians in the US (2016)
 - 16% of physicians are licensed in two states
 - 6% of physicians are licensed in three or more
- **Goal: Facilitate multistate practice without compromising patient safety or quality**

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Interstate Medical Licensure Compact



www.imlcc.org



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Federal Telemedicine Legislation

- Continued interest in expanding telemedicine in the 116th Congress
 - Removing geographic location and originating sites barriers
 - Allowing payment by federal programs for additional telehealth services
 - FSMB submitted formal comments to CMS on regulations relating to expansion of telehealth in Medicare Advantage plans and payment for telehealth under the Physician Fee Schedule
- Telemedicine is viewed as a significant component in combating the opioid crisis by increasing access to substance abuse treatments
- All private health plans, Medicare, Medicaid and VA cover some e-visits
- FCC approved \$100M telemedicine pilot program aimed to increase access to telemedicine through increased broadband – similar to other programs increasing access to healthcare and connectivity in rural areas
 - *Connected Care Pilot Program*



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State Telemedicine Legislation

- **250 bills introduced during the 2019 Legislative session, so far**
 - **Wide range of issues:**
 - Definition of telehealth/telemedicine
 - Establishment of standards
 - Reimbursement & Insurance Parity
 - Prescriptive authority/e-prescribing
 - **States that in recent years established or expanded standards for the practice of telemedicine:**
 - Alaska, Arkansas, Indiana, Louisiana, Michigan, Minnesota, Missouri, North Dakota, Oklahoma, South Carolina, Texas, and West Virginia

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State Telemedicine Trends & Policies

- **Reimbursements**
 - Medicaid
 - All states and D.C. provide reimbursement for some form of live video in Medicaid fee-for-service.
 - 11 state programs reimburse for store-and-forward.
 - 21 state programs provide reimbursement for RPM.
 - Six states reimburse for all three, although certain limitations apply.
 - Private
 - 40 states govern private payer telehealth reimbursement policies
 - Growing trend to expand its applicability to additional specialities or policy types

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State Telemedicine Trends & Policies

- **Originating Sites**
 - 15 states and D.C. specifically allowing school to be eligible originating sites
 - 14 states allowing the home to be an eligible originating site, with certain conditions
- **Consent**
 - 39 states include some sort of informed consent requirements in their statutes, code, and/or policies.
- **Licensure**
 - 29 states, D.C., and Guam have adopted IMLC
 - 10 boards issue special licenses or certificates related to telehealth

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Thank you!

Questions?

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