

Telemedicine Guidelines Adopted by State Medical Boards

The State Medical Boards' Appropriate Regulation of Telemedicine (SMART) Workgroup passed a new model for telemedicine policy on April 26, 2014.¹ The new policy provides guidance to state medical boards for regulating and evaluating the appropriateness of care related to telemedicine technologies.² The purpose of the SMART Workgroup was to comprehensively review all telemedicine technologies currently in use and remove regulatory barriers to adoption of telemedicine technology.³

The Federation of State Medical Boards (FSMB) Model Policy addresses each aspect of telemedicine, including appropriate online medical care; physician-patient relationship; HIPAA compliance; patient privacy; informed consent; and, drugs prescriptions.⁴ This policy ensures that patients are protected in an era where advancement of medical and communications technology is becoming more prevalent and attractive in the healthcare industry. Three of the key attributes in the policy are:

- (1) *"Standards of care that protect patient during in-person medical interactions apply equally to medical care delivered electronically.*
- (2) *Providers using telemedicine should establish a credible 'patient-physician relationship' and ensure that their patients are properly evaluated and treated*
- (3) *Providers should adhere to well-established principles guiding privacy and security of records, informed consent, safe prescribing and other key areas of medical practice.*"⁵

The FSMB Telemedicine Policy is only advisory, and individual state medical licensing boards will need to decide whether to adopt their own requirements or modify the existing requirements.

Prior to this new policy model, *Federation of State Medical Boards 2002 Model Guidelines for the Appropriate Use of the Internet in Medical Practice*, was used as a benchmark for evaluating care given through the means of the internet.⁶ The 2002 Model Policy states that electronic communications like e-mail should supplement, but not replace, interpersonal interactions between physicians and patients, while the 2014 Model Policy breaks down that barrier by allowing telemedicine technologies to compensate for in-person care.

As discussed in a previous Health Capital Topics article, the benefits of telemedicine include simplifying the delivery of medical services from a remote location to a patient.⁷ Telemedicine involves the use of secure videoconferencing or store and forward technology by replacing the traditional interaction between provider and patient. *"Store and forward"* technology allows for the electric transmission of medical information and aids in diagnosis and medical consultation when live video or in person contact is not available.⁸ According to the *American Telemedicine Association (ATA)*, services may also include using smart phones, wireless tools, and e-mail.⁹

Telemedicine is seen as a cost-effective alternative to the more traditional face-to-face interaction of providing medical care, it has the potential to drastically decrease costs by entirely eliminating the need to visit a facility and removing geographic distance as a barrier.¹⁰ However, a distinct formal definition for telemedicine was not established until the FSMB's 2014 policy. The policy defines telemedicine in detail because Medicare and Medicaid, as well as other commercial insurers, may make reimbursement decisions based upon state standards, as well as whether the payor believes a particular mode of communication is a valuable treatment option and eligible for reimbursement.¹¹ Defining telemedicine is also crucial for practices because it could affect physicians' professional liability coverage. Physicians performing telemedicine services should ensure that their malpractice liability insurance policy covers such telemedicine-related incidents, and extends across state lines if they'll be providing services out of state.¹²

This redefinition by FSMB has generated a heated debate from advocates like American Telemedicine Association, which asserts that the policy could impede the innovative progression in the field because the policy *"does not appear to reflect current regular uses of telemedicine and raises significant barriers to its use."*¹³ They also noted in their proposal that the policy does not address physician-to-physician consultations using telemedicine.

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- 1 “Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine,” Report of the State Medical Board’s Appropriate Regulations of Telemedicine (SMART) Workgroup, April 2014, http://www.fsmb.org/pdf/FSMB_Telemedicine_Policy.pdf (Accessed 6/16/2014), p.1.
 - 2 *Ibid.*
 - 3 *Ibid.*
 - 4 *Ibid.*, p. 2.
 - 5 “State Medical Boards Adopt Policy Guidelines for Safe Practice of Telemedicine,” Federation of State Medical Boards, 4/26/2014, http://www.fsmb.org/pdf/FSMB_NR_Telemedicine_Policy042614.pdf (Accessed 6/16/2014).
 - 6 “Federation of State Medical Boards Passes Model Telemedicine Policy” By Kate Stewart, 5/2/2014, http://www.martindale.com/health-care-law/article_Mintz-Levin-Cohn-Ferris-Glovsky-Popeo-Pc_2134846 (Accessed June 13, 2014).
 - 7 “The Growth and Struggle of Telemedicine and CMS Finalizes Rules on Telemedicine,” Health Capital Topics, Vol. 4, No. 4, (April 2011).
 - 8 “VA Telehealth Services” By U.S. Department of Veterans Affairs, <http://www.telehealth.va.gov> (Accessed 5/14/14).
 - 9 “Proposed changes to the Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine” By American Telemedicine Association, 4/21/2014, <http://www.americantelemed.org/docs/default-source/policy/click-here.pdf?sfvrsn=0> (Accessed 6/16/2014).
 - 10 “Benefit of Telemedicine,” By Telemedicine Association of Oregon, 1/16/2014, <http://www.jirwinconsulting.com/Benefits%20of%20Telemedicine.pdf> (Accessed 6/16/2014).
 - 11 Stewart, 5/2/2014.
 - 12 “Medical Malpractice and Liability,” By Telehealth Resource Center, <http://www.telehealthresourcecenter.org>. (Accessed 5/14/14).
 - 13 ATA, 4/21/2014.



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