Telemedicine Reimbursement and Compliance Issues

Agenda

- Telemedicine Overview
- Regulatory Structures
  - Licensure
  - Credentialing
  - Scope of Practice
- Reimbursement
- Operational and compliance issues
What is Telemedicine?

- Communication with patient or consulting provider from remote location
  - Store & forward
  - Real-Time (Synchronous) Services
  - Remote Monitoring

Telemedicine Overview

Efficacy


- **Results:** Chronic diseases managed with telemonitoring provided fewer & shorter hospital admissions, fewer emergency room visits, less severe illness & reduction in mortality.
  - **CHF:** Tele-monitoring coordinated system of care - chronic
  - **Stroke:** tPA during Golden Hour, CT scan early - acute
  - **COPD:** telespirometry (lung function) – specialists by teleconsultations
Have you or someone you know received healthcare via telemedicine?

Telemedicine Overview

- mHealth driving consumer demand – tech sophisticated patient
  - Apple
  - Google
  - Microsoft
- Brand loyalty/engagement - “stickiness”
- Federal of State Medical Boards & American Medical Association
- Mercy - Virtual Care Center
- Doctor On Demand, American Well, MDLIVE, etc.
Patient Engagement Across the Digital Spectrum

Single Channel
education & basic self-service (informational website)

Multiple Channels
basic unilateral communication - PHI across Web portal scheduling & administrative (telehealth)

Integrated Channels
bilateral static communications store-and-forward and written medical advice (telemedicine)

Remote Monitoring
Sensors & monitoring equipment to external monitoring center (telehealth/telemedicine)

Ubiquitous
real time audio & video (telemedicine)
Is telephone part of telemedicine?
Hospital-Based Telemedicine Platforms

- Telestroke
- Teleradiology
- Tele-ICU
- Telemental Health
- Cybersurgery
- Remote Monitoring
- Telepharmacy
- Consultations
- Healthcare System Joint Ventures

Licensing Telemedicine Business Model Examples

- Direct to consumer
- Evaluation storefronts
- Clinics with physicians on ground
- Clinics with site-presenters on group
- Home-based follow-up
- EHR vendors
- Joint ventures with academic organizations
- Federal & state grant programs
- Incorporate into integrated organizations
- Smaller vendor platforms
- Big box stores & pharmacies
- Non-physician providers to the maximum of their licensure
- Intellectual property for systems both human and electric
Telemedicine Regulatory Structures

- FDA – medical devices
- FCC – wireless spectrum
- OCR – HIPAA/HITECH
- FTC – Breach Notification Rule
- Office for National Coordinator for Health Information Technology – standard development & coordination
- DEA – no controlled substances without in-person exam
- Armed Forces – federal employees not subject to state regulation (innovation)
- International – regulations of country (provider/patient-based)
  - Foreign Corrupt Practices Act (FCPA)

Licensing

- Generally must have a medical license issued by state where patient is located
  - Federation of State Medical Board’s Interstate Medical Licensure Compact would facilitate licensure applications across state lines
    - 17 states have introduced legislation to adopt
    - 6 states have adopted (South Dakota, Utah, West Virginia, Idaho, Montana & Wyoming)
  - 10 states grant a limited telemedicine license
Credentialing

- Must credential physicians providing telemedicine
- In 2011, CMS enacted proxy credentialing
  - Originating Site (where patient is located) may rely on Distant Site’s (location where physician provides telemedicine) credentialing
  - Originating Site must enter into agreement with Distant Site
    - Distant Site is Medicare participating hospital
    - Physician holds a medical license from Originating Site
    - Physician has privileges at Distant Site
    - Originating Site sends Distant Site any adverse actions & complaints resulting from physician providing telemedicine services
Scope of Practice – State Specific Requirements

- Example state laws regulating physician/patient relationship
  - Arkansas requires in-person exam prior to provision of telemedicine services
  - Texas requires patient be seen initially & for annual in-person exam
  - Idaho requires in-person exam before issuing prescription

Scope of Practice – Controlled Substances

- Ryan Haight Online Pharmacy Consumer Protection Act restricts prescribing controlled substances through telemedicine
  - Prohibits dispensing controlled substances via internet without “valid prescription”

- Physician practicing telemedicine may prescribe controlled substances without in-person evaluation if:
  1. patient physically located in hospital or clinic with valid DEA registration; and
  2. physician has DEA registration & is treating patient in usual course of practice
Has your organization received or disbursed reimbursement for telemedicine?

Telemedicine Reimbursement - Medicare

**Requirements**
- Only reimburses for services provided via real-time via to patients located in rural area & at qualified Originating Site
- **Qualified Originating Site** includes hospitals, critical access hospitals, rural health clinics, federally qualified health centers, practitioner office, skilled nursing facility, community mental health center, & hospital based renal dialysis centers
- **Provider** includes physician, NP, PA, nurse mid-wife, clinical nurse specialist, & certified registered nurse anesthesiologist

**Reimbursement**
- Same professional fee as in-person services
- Originating Site receives facility fee ($24.83 for 2015)
- Limited set of covered services
### Medicare

**Checklist for Medicare Coverage**

- Does service utilize real-time video & audio?
- Is patient at approved facility within rural market at time of service?
- Is service performed by provider of type authorized for telemedicine & credentialed with "patient-site" facility?
- Is service approved telemedicine service?

### Medicaid

- 48 states provide some reimbursement for telemedicine services
- States have various requirements/restrictions on telemedicine reimbursement
  - Tennessee reimburses for telemedicine for crisis services
  - Idaho reimburses for psychiatry services
- Medicaid expansion under Affordable Care Act may increase state coverage of telemedicine services
### Medicaid

- 24 states do not specify patient setting or patient location as condition of payment for telemedicine
- 25 states allow reimbursement for telemedicine received in patient’s home
- 16 states allow reimbursement for telemedicine provided in schools
- 15 states do not speak to type of provider who must provide telemedicine care

### Commercial Insurance

- 24 states have telemedicine parity laws
  - 16 of 24 states do not have location, provider, or technology limits/exclusions
    - Colorado recently expanded its parity law to apply to all commercial plans (previously only applied in rural areas)
    - Texas prohibits commercial insurance from excluding service provided via telemedicine solely because the service is not provided through a face-to-face consult
    - Connecticut has no parity law
Commercial Insurance – Press Releases

UnitedHealthcare Covers Virtual Care Physician Visits, Expanding Consumers’ Access to Affordable Health Care Options

MINNETONKA, Minn. (April 30, 2015) - UnitedHealthcare is expanding coverage options for virtual physician visits, giving people enrolled in self-funded employer health plans secure, online access to a physician via mobile phone, tablet or computer 24 hours a day.

A new network of care providers offering video-based virtual visits enables UnitedHealthcare plan participants across the country to choose from in-network virtual care provider groups, then see and speak with a doctor using real-time audio and video technology to obtain a diagnosis and any necessary prescriptions for minor medical needs including allergies, sinus and bladder infections, bronchitis and other conditions.

Commercial Insurance – Press Releases

- June 2015, Anthem BCBS will implement program allowing patients access to physician via live video feed after hours
- March 2015, BCBS Massachusetts announced implementation of pilot program covering video consultations for certain conditions
- 2013, BCBS South Carolina started pilot covering telemedicine for patients in rural areas with high-risk pregnancies, follow-up care after a stroke, & mental healthcare
Hybrids

- Some insurance companies are starting to pay for their members to receive telemedicine services from specific groups or providers
- Collaborations between providers & insurance companies for telemedicine reimbursement
- Expanding locations (schools, nursing homes, rural hospitals, etc..) benefit from telemedicine
- Fee-for-service, value-based, population health
Does your organization have compliance policies that speak specifically to telemedicine?

### Telemedicine Risk Management

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<thead>
<tr>
<th>Telemedicine Informed Consent</th>
<th>Practice Standards &amp; Protocols</th>
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<tbody>
<tr>
<td>• State requirements &amp; standards of care</td>
<td>• Is telemedicine sufficiently different from usual care to require its own protocols &amp; standards</td>
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<thead>
<tr>
<th>Physician-Patient Relationship</th>
<th>Medical Records</th>
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<tbody>
<tr>
<td>• How defined for purposes of scope of practice</td>
<td>• Mutual storage</td>
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<tr>
<td>• Continuity of care</td>
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<tr>
<td>• Physician-patient relationship (initiation &amp; termination)</td>
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Telemedicine Risk Management

• Privacy Data Policies & Procedures
• Physical technical & administrative safeguards
• Controlled access (contractors, subcontractors)
• Breach response policies, teams, procedures
• Independent audits & annual risk assessments
• Privacy disclosure documentation
• Business Associate Agreements
  • Audit Protocols (Covered Entities; Business Associates)
  • Cybersecurity policies & procedures
What are Cloud Services?

- Applications
- Data
- Runtime
- Middleware
- Operating
- Virtualization
- Servers
- Storage
- Networking

Telemedicine Risk Management

- **Data Encryption Protections**
  - Data in transit *between user & service*
    - Protects user from interception of their communication & helps ensure transaction integrity
  - Data in transit *between data centers*
    - Protects from bulk interception of data
  - Data at rest
    - Protects from removal of *physical media*
  - End to end encryption of communications between users
    - Protects from interception or loss of data in transit *between users*
Telemedicine Risk Management

Insurance – analyze across the enterprise

Jurisdiction specific
General liability
D & O
Medical Malpractice
Cybersecurity
Responding to government investigations

Thank you

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Thank you
We will send you an email with the CLE certificate of attendance.