Telehealth for an Aging Population: How Can Law Influence Adoption Among Providers, Payors, and Patients

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“Launches in early 2010, a RV equipped to provide mobile medical services... via telemedicine technology, ensuring that services such as telemental health, teledermatology, telewound care and other consultations can be offered with ‘real time’ or ‘store and forward’ capability.”
The Promise of Telehealth

“Broad reach of telehealth... [and] significant areas of unrealized potential.”

– Alan Weil
Editor-in-Chief
37 Health Affairs 12 (Dec. 2018)

8% of physicians in small practices use telehealth, while 25% among physicians in larger practices.
The Current State Of Telehealth Evidence: A Rapid Review

- Study window: 2004-2018
- Research questions:
  - Do telehealth services reduce the use of other services?
  - Are telehealth services equivalent to in-person care?

Insufficient evidence – new utilization, substitute, supplement

Yes, but variation in modality, quality, population demographics...
Telehealth use increased dramatically during 2013–16, (6.6% to 21.6%).

“Compared to those over age 65, the odds of using live video with a doctor were 16 times higher for those aged 24-44.”
Older Americans and Telehealth

- Difficulty leaving the home (#1)
- Healthcare costs and needs
- Centers for Medicare & Medicaid Services

2030:
79 million Americans will be over 65, 20% of the population
The 65+ Age Group Will Make Up A Growing Portion Of The US Population

In millions

Source: US Census Bureau, 2012

Graduate Medical Education
Healthcare Provider Shortage
The Promise of Telehealth for Older Adults

- University of Michigan National Poll on Healthy Aging (October 3, 2019)

**Over half** of older adults reported willing to have a telehealth visit last year, but **only 4%** had one.

**Reasons for reluctance:**

- Lack of awareness
- Not feel connected to provider
- Worried about “seeing or hearing” the doctor
- Privacy (mixed)
Additional considerations with an older population

- **Heightened vulnerability**
  - Increased incidence of cognitive impairment and decline
  - Multiple comorbidities

- **Systemic changes in care**
  - Tension: Limited resources, cost-effective, lower investment in individual care
  - Consent: Remote patient monitoring; evolving benefits and risks

- **Social isolation and loneliness**
  - Less human interaction with care monitored at a distance
  - Link to health risks
Promise of telehealth: A scalability problem?

Legal barriers to cross-border practice

Changes to traditional healthcare delivery, market, and trust

(discomfort with modality)

What is the alternative?
How well does the law work in practice?

*Can we do better?*

Establishment of a healthcare relationship
State licensure laws
Reimbursement
Establishment of a patient-physician relationship via telemedicine

The following compilation of state laws may be useful to state and national specialty medical societies in advocacy related to effects of state and federal laws or regulations that define establishment of a patient-physician relationship for purposes of treatment telemedicine.

All states allow a physician to establish a relationship with a new patient via teledmedicine, though state laws differ. A few states include some caveats to that general rule, restricting the setting in which a face-to-face patient must be located in order to establish the patient-physician relationship (e.g. limiting to established medical site), or the modalities that can be used to establish such a relationship (e.g. telephone versus two-way audio and video technology). More details on each state’s laws and regulations are below.

The AMA believes that a valid patient-physician relationship may otherwise be required to the provision of the same service with otherwise the patient. The physician who has established a valid physician-patient relationship as part of evidence-based clinical practice guidelines or telemedicine situations, emergency medical treatment, and other exceptions in telemedicine, shall identify the need to provide services to the patient.

<table>
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<tr>
<th>State</th>
<th>Statute</th>
<th>Establish relationship via telemedicine</th>
<th>Notes</th>
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| Alabama | AAC 540-X: 15-02 | Only at established medical site (and other exceptions) | Separate rules for telemedicine provided at a medical site as non-medical site. Telehealth Medical Services Provided at an Established Medical Site

- Telehealth medical services provided at an established medical site may be used for all patient visits, including initial evaluations to establish a provider-patient relationship. |
Real consequences to “the absence of laying on the hands” in terms of weakening an accurate diagnosis.

-Edward Miller
Nuffield Council on Bioethics, 2010
“Fifty percent of patients leave office visits not understanding what the physician has told them.”
If require in-person visit:

Doctor protectionism or patient welfare...

- Increasing costs and restricting access justified?

- Implications: modality, patient choice, provider shortage

- Competency and standard of care should suffice, regardless of delivery method (Federal Trade Commission)
State Licensure & Interstate Medical Licensure Compact (IMLC)

- 80% docs qualify
- 29 states participating
- Not automatic reciprocity

Consultation exemption, special licenses

National licensure scheme
Private Payor Reimbursement Laws
Medicaid

- All 50 states reimburse for live video communications, but restrict based on originating site.

- Currently, 19 states reimburse for services in the home.

- Further restrictions around specialty and types of providers.
Medicare Advantage 2020

Removes geographic and site restrictions for Medicare Advantage beneficiaries

Proposed legislation

Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT)
Promise of telehealth: A scalability problem?

Legal barriers to cross-border practice

Changes to traditional healthcare delivery, market, and trust
(discomfort with modality)

What is the alternative?
Structural shift in healthcare delivery

Lack of awareness, education, incentives
(only 8% of smaller practices)

Job satisfaction
(patient connection; hand-off to specialists)

Physician-patient relationship
(greater access and convenience; supervision of overall care)
Structural shift in healthcare delivery

Quality of care
  (inappropriate prescribing)

Ambiguity
  Patient has a chronic condition with an acute infection...
What is the alternative?
Palliative Care in Alabama

“Fewer than 40% of hospitals in Alabama offer palliative care services.”

“16% of households in rural Alabama (54 counties) lack a vehicle.”

Multidisciplinary palliative care model isn’t feasible in rural areas.

“It’s an equity issue, patients should get access to all levels of care. Not just curative and preventative, but also humane care for serious illness.”
“Inadequacy of care provided to the dying... Our health system should ensure that all Americans have the ability to choose a good death.”

“My husband succeeded in dying in his own damn bed, in his own damn house, but we did not have needed medical management. It was terrible.”
Can we do better…
(promise of telehealth)

to support cross-border telehealth practice?

to support older Americans?

Legal Barriers
- Healthcare relationship
- Licensure (IMLC)
- Reimbursement (Home)

Older Adults
- Quality & safety
- Training
- Additional support

Future Research
- Transparency
Thank you

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