2016 CLM Annual Conference
April 6-8, 2016
Orlando, FL

"Expanding Frontier of Telemedicine – Clear Skies or Stormy Weather?"

I. Advances in Telemedicine

A historical look, recent developments and future trends.

The practice of medicine through telecommunications, or telemedicine, began in the early 1960's when the NASA put the first men in space. Physiological measurements of the astronauts were transmitted from both the spacecraft and the space suits during NASA space flights. These early efforts were enhanced by the development of satellite technology which initiated the development of telemedicine.

NASA continued to fund telemedicine research projects in the late 1960's and early 1970's. According to Basher, Armstrong, and Youssef (1975), there were fifteen active telemedicine projects in 1975. Telemedicine technology has continued to increase and the cost of equipment has decreased over time, resulting in a rapid increase in the number of telemedicine research projects and increase in the scope of those projects and in telemedicine services.

The benefits of telemedicine are many and include improved access to information, provision of care not previously deliverable, improved access to services, greater convenience and increased quality control.

89% of healthcare executives said they expect telemedicine to transform the U.S. healthcare system in the next decade.
- Source: iHealthBeat

The global telemedicine market is expected to grow from $11.6 billion in 2011 to $27.3 billion in 2016.
- Source: BCC Research

Worldwide revenue for telehealth devices and services is expected to reach $4.5 billion in 2018, up from $440.6 million in 2013
- Source: IHS

The number of patients using telehealth services will grow to 7 million in 2018, up from 350,000 in 2013.
- Source: IHS

Telemedicine could potentially deliver more than $6 billion a year in healthcare savings to U.S. companies.
- Source: Towers Watson

Examples of technologies that have been instituted by various health care providers/organizations

Synchronous Audio / Video - Real time audio-video is considered the gold standard for telemedicine delivery. A close second, accepted across many states, is interactive audio with asynchronous data transmission of the patient's medical information. There are many situations where synchronous audio-video is neither feasible nor clinically necessary for appropriate medical action (e.g., teleradiology and telepathology both use asynchronous tech). Yet, even for synchronous audio-video, there remains variation among states regarding how, when and where these services are covered. For example, some states allow patients to conduct video consults from any location, whereas some mandate the patient be located at a qualifying originating site or a rural area. The trend, however, is to remove these artificial barriers and allow coverage of telemedicine consults regardless of the patient's location.

Remote Patient Monitoring - Remote patient monitoring (RPM) is a service without in-person equivalent. Therefore, very few states include RPM in their commercial insurance coverage laws, with some exceptions being Delaware and Mississippi. Similarly, fewer than two dozen states offer Medicaid FFS coverage of RPM services. Moving into 2016, as payers and providers recognize telemedicine's cost-savings benefits for patients with chronic illnesses and push for it, and as better home health care technologies proliferate, we are sure to see more legislation requiring coverage for RPM. One place to look will be states with older telehealth coverage laws, as providers in those states may push for an update to those laws to include RPM.

Asynchronous (Store and Forward) - Store and forward – the electronic transmission of medical information, including pre-recorded videos, images, and documents – is covered only by a minority of states because most have defined telemedicine as "occurring in real-time," or "using live video." Fewer than a dozen states expressly mandate coverage of store and forward telehealth in their commercial coverage laws. But in those states that do cover store and forward, insured patients can enjoy a powerful and convenient care benefit. Examples include Colorado, Connecticut, Hawaii, Montana and several more. Approximately the same number of states include coverage of store-and-forward in their Medicaid FFS program benefit.

II. Benefits of Telemedicine – To the health care provider and patient

Access to care / Convenience - Through video, Web chat, or phone, patients can follow-up on a prescription or diagnosis with a physician or with a new doctor. This also equates to less time in the waiting room for patients. Not only does telemedicine improve access to patients but it also allows physicians and health facilities to expand their reach, beyond their own offices. Given the provider shortages throughout the world--in both rural and urban areas--telemedicine has a unique capacity to increase service to millions of new patients.

Cost-effectiveness - An increasing number of doctors are charging less for a telemedicine consultation than they would for an in-person visit. Telemedicine can also reduce travel expenses for the patient. Reducing or containing the cost of healthcare is one of the most important reasons for funding and adopting telehealth technologies. Telemedicine has been shown to reduce the cost of healthcare and increase efficiency through better management of chronic diseases, shared health professional staffing, reduced travel times, and fewer or shorter hospital stays.

Expedited Access to Information - Transmission of MRIs or X-Rays by email is quicker than ever now that in-person visits and postal mail are no longer the only options. It also provides quicker access to patient records and information regarding medical history.

III. Problems Providers and Patients have encountered

Impact on provider/patient relationship - While having the ability to interface with your primary care physician or dentist is a major plus, certain non-verbal cues might still slip through the cracks.

Privacy / confidentiality concerns with potential for hacking – Data security has been an increasingly important issue as several high profile corporations have suffered data breaches in recent years. Security measures should be included as in integral part of a telemedicine program.

Regulatory issues - Licensure, and license portability, is an important issue facing the expansion of telemedicine services. Although a few states provide for a special license for physicians providing telemedicine services in the state, the majority of states require physicians to obtain a full state license. However, in 2015, the Federation of State Medical Boards (FSMB) introduced the Interstate Medical Licensure Compact. The Compact creates an expedited process for eligible physicians to apply for licensure in states that adopt the Compact. It is intended to allow for a less onerous and time-consuming process for physicians seeking licenses in multiple states while allowing states to retain their licensing and disciplinary authority. Twelve states passed the Compact language in 2015, with bills pending in eight additional states.

State Laws on Online Treatment - Amid the excitement about the potential for telemedicine, states continued to express concerns about the safety and security of telemedicine services. Many state legislatures and regulators are attempting to balance the rapid acceleration of technology and telemedicine and its potential benefits with the responsibility to ensure safe, quality care for their constituents. In response to these concerns, many states chose to enact laws or issue regulations more clearly defining telemedicine and establishing specific treatment and online prescribing standards. States vary on the requirements but, in general, most states allow services provided via telemedicine to establish a valid physician-patient relationship and satisfy physical examination requirements as long as the standard of care is met. States differ on the definition of telemedicine, but most require something more than an online questionnaire.

IV. Insurance Concerns

Coverage issues - 2015 saw an unprecedented number of states enacting laws requiring commercial insurers to cover telemedicine services. Eight states passed telemedicine coverage and reimbursement laws in 2015, and similar bills are in development in several other states. State laws governing commercial insurers vary widely but generally come in three forms: (i) the stipulation of certain criteria if insurers choose to cover telemedicine; (ii) require coverage of telemedicine for certain services, certain populations, or all members; or (iii) require reimbursement at the same rates as in-person care. Currently, 32 states and the District of Columbia have telemedicine parity laws, some of which will go into effect in 2016 or 2017.

In addition to state laws requiring reimbursement for telemedicine, some commercial insurers are choosing to cover telemedicine services for all or a select segment of their members. For example, several large insurers offer online live video telemedicine visits with providers as a covered benefit for members. And, in some cases, these services are also available for a fee to non-members.

Expansion of Coverage - Several bills were introduced in 2015 that would affect telemedicine services provided to Medicare beneficiaries. The Telemedicine Parity Act of 2015 would

gradually increase the scope of telemedicine services covered by Medicare and addresses many of the current limitations in Medicare's coverage of services provided to patients remotely. Notably, the bill would, two years after enactment, permit reimbursement under Medicare for certain services provided in a beneficiary's home, regardless of rural or urban designation.

Additionally, the Telemedicine for Medicare Act of 2015 is aimed at streamlining professional medical standards by allowing physicians licensed in one state to provide care remotely to Medicare patients located in other states without obtaining a license in the patient's state. The Telehealth Modernization Act of 2015 goes beyond changes to the Medicare program and calls for states to authorize health care professionals to deliver health care to individuals via telemedicine and consider adopting specified conditions for the provision of telemedicine services in the state.

The Senate's telehealth working group will likely introduce a bill in 2016 that would expand Medicare reimbursement for telemedicine services. The bill would authorize the HHS Secretary to issue telemedicine "bridge" demonstration waivers to Merit-Based Incentive Payment System eligible professionals and ACOs for patient management activities using telemedicine services and remote patient monitoring services. Additionally, the bill permits payment for telemedicine and remote patient monitoring services in alternative payment models, and sets forth improvements in the Medicare fee-for-services coverage of telemedicine services provided to patients with chronic conditions.

V. Exposure to Claims

While some form of telemedicine has been practiced in the United States for over 50 years, information regarding liability risks is limited.

The number of remote patient visits compared with the number of inpatient visits has been and still is low - Remotely interacting with patients should not expose doctors—or their firms—to an avalanche of new liability risks simply because they are practicing telemedicine per se. There has been a low incidence of claims to date.
This area of medicine is still relatively new and it is difficult to determine what the future may hold, however, mechanisms may be put in place to limit such exposure.

VI. Considerations for an Effective Telemedicine Program

Strategies for Maximizing Care/minimizing risk

#1 - Establish a direct patient - physician relationship. It may be necessary to document this with Medical Boards. The Boards will likely want to see that providers have a personal, one on one relationship with patients. How this is established can vary. For example, some providers may use a locally, licensed Physician to provide a standard physical on the patient and then forward the report to the Telemedicine Physician. From there the Physician provides medical treatment for the patient.
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#2 – Pracitioners should provide the same type of care that they would provide to patients who physically come to the office whether they are treated online, via phone, or teleconferencing. If a practitioner is are required to maintain thorough records for patients in an office setting, then they will have to do so for Telemedicine Patients.

#3 - The Law applies where the Patient is located and where the practitioner is located. Just because the State where the provider is based allows it does not mean that it is ok in the State where the Patient is located. If State A does not have restrictions on a Drug (non Controlled) and State B does, then the practitioner has to abide by State B's rules when dealing in Telemedicine. It is most prudent to abide by the more Restrictive State when dealing with Telemedicine.

#4 - Do not prescribe Controlled Substances Class II Drugs. Narcotics cannot be prescribed remotely through Telemedicine. Pracitioners should be familiar with stSte and Federal Laws concerning Class III, IV, and V Drugs. Some may be unlawful to prescribe whereas some may be fully lawful. This will vary from State to State.

#5 – Pracitioners should communicate with their Insurance Carrier / Insurance Agent before taking on a new state. Why? Insurance is regulated by the States' Dept. of Insurance. The rules vary State by State. As such there is a good possibility that a provider's insurance company may not cover new states. Practitioners should want to avoid facing potential suit in a state 1500 miles away.