Telemedicine:
Protecting Patients, Expanding Access

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About FSMB

- FSMB offices in Euless, TX and Washington, DC
- Established in 1912
- Represents 70 state medical and osteopathic boards
- Nonprofit 501(c)6 organization with approximately 185 staff
FSMB and Telemedicine

• FSMB’s role as leader in evolving regulatory policy 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)

• Recipient of federal grants to address license portability
  – Uniform Licensure Application
  – Technical enhancements to Federation Credentials Verification Service
  – Expedited endorsement policies
  – Interstate Medical Licensure Compact
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
Addressing Challenges and Barriers

• Policy Harmonization
  • State Medical Boards’ Appropriate Regulation of Telemedicine 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.
Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (2014)

- A guidance document for state medical boards intended to remove 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 applicable to physician assistants or other health professionals who may be regulated by the medical board
  - Supported by regulatory, professional, and private sectors
Model Policy Guidelines

• 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.
  
  • 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.
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 established upon agreement for diagnosis and treatment:
  • Whether or not there has been an in-person encounter
  • The same standard of care applies
Model Policy Guidelines

• **Licensure**
  • Physician is under the jurisdiction of the state where the patient is located
  • Practice of medicine occurs where the patient is located at the time 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

• **Prescribing**
  • Same level of professional accountability as prescriptions delivered during an in-person encounter
  • Sole use of online questionnaire is not acceptable
Addressing the Licensure Challenge

• Health care delivery – a changing paradigm
  • Growth of telemedicine and advancing technologies
  • Consumer demand/employer recruiting/retention incentive
  • Alternative payment models
  • Demand for cost/quality efficiencies
  • Workforce disparities
  • Integration of health care delivery systems
  • Increase in multistate practice
    • 916,264 licensed physicians in the US (2014)
    • 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
Interstate Medical Licensure Compact

- A voluntary expedited pathway to facilitate multistate practice, increasing access to health care for patients in underserved and rural areas and allowing them to more easily connect with medical experts through the use of telemedicine technologies.

www.imlcc.org
Interstate Medical Licensure Compact

• Interstate Medical Licensure Compact
  • 22 States Enacted
  • Legislation also active in Michigan, Rhode Island, Texas, D.C., and Guam
  • IMLC Commission began accepting applications on April 6, 2017
  • Next steps: Develop rules related to renewal
State Telemedicine Policy Overview

• **Licensure**
  - 52 boards specifically state that physicians engaging in telemedicine have a full, unrestricted license in the jurisdiction where the patient is located
  - 14 boards are authorized to issue a special-purpose license, telemedicine license, or certificate
  - 4 boards require physicians to register if they choose to practice across state lines

• **Reimbursement**
  - 48 states, plus DC, have some form of reimbursement for telehealth in their Medicaid programs
    - Massachusetts does not; Rhode Island will Jan. 1, 2018
  - 30 states, plus DC, have parity laws for private insurance coverage for telemedicine
State Telemedicine Policy Overview

• **Standard of Care**
  - 29 boards require the same standard of care be applied to telemedicine encounters as face-to-face

• **Physician-Patient Relationship**
  - Four states require in-person exam prior to telemedicine encounter, and three require in-person follow-up

• **Informed Consent**
  - 29 states have some form of informed consent requirements in statutes, administrative code, and/or Medicaid policies

• **Other telemedicine-specific provisions**
  - Prohibit the prescribing of controlled substances
  - Specifically exclude “audio only”
• 365 bills introduced during 2015/2016 Legislative Biennium
• Of those, 105 bills were enacted into law
State Telemedicine Legislation

• 2017: 229 bills in 2017 Legislative session, so far
  • 46 signed into law
• Wide range of issues:
  • Definition of telehealth/telemedicine
  • Establishment of standards
  • Reimbursement & Insurance Parity
  • Prescriptive authority/e-prescribing
• States that recently legislation establishing or expanding standards for the practice of telemedicine:
  • Alaska, Arkansas, Indiana, Louisiana, Michigan, Minnesota, Missouri, Oklahoma, South Carolina, Texas, and West Virginia
Thank you!

Questions?

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