When it Comes to Telehealth, Look Before You Leap

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With many doctors interested in getting involved with some kind of telehealth model, it’s important to know the legal and reimbursement limitations.

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One of the hottest trends in healthcare for physicians is telehealth (sometimes called telemedicine). Many providers are eager to find ways to become involved in this exciting area, which has tremendous growth and revenue opportunity. Whether employing telehealth locally within an office practice or developing a national model, it is essential for providers to understand the legal and reimbursement limitations that currently exist. The following are a few considerations:

1. Although technology can allow a provider access to patients across the country (and the world), physicians may only treat patients in states in which the physician is licensed, except under certain exceptions. Multi-state licensing is something which has not kept up with the growth in telemedicine and physicians must become licensed in multiple states (or affiliate with providers in other states) to utilize a national telehealth model. This is expected to change in the coming years and you can read more here.

It’s important to also remember that while non-licensed individuals can be partners in the telehealth market, licensed providers must be cognizant of state laws covering the corporate practice of medicine, fees splitting, and other legal restrictions on physician business relationships.

2. Medicare regulations do cover some telehealth services, but reimbursement is still limited largely to rural areas for a limited number of services. This is also likely to change in the coming years. Congress created the Center for Medicare and Medicaid Innovation (CMMI) to test testing innovative payment and delivery models. Also, legislative proposals have been introduced that may expand coverage of medical telehealth services. ACOs, in particular, have been encouraged to experiment with telehealth as a means of reducing costs and increasing quality of care.

On the other hand, Medicaid is a bit more progressive and has better reimbursement methodologies for telemedicine than Medicare. However, there is still a lack of consistency among states in both coverage and reimbursement, which can make it difficult to operate in multiple states. Many commercial payers have also started to embrace telemedicine, but again there is inconsistency among carriers and from state to state. Acceptance of telehealth is undoubtedly growing, with 20 states and the District of Columbia have already enacted “parity” laws. These generally require health insurers to cover and pay for telehealth services in the same way they cover traditional in-person patient care. However, even among states with such parity laws, there are rules regarding the types of providers that can be reimbursed for telehealth as well as the services that are required to be covered. Providers must therefore conduct a close review of the laws in every state in which they intend to practice, as well as the policies of those payers which they intend to bill.

3. Telehealth can take many different forms, from live interaction using technology like Skype, to the use of remote patient monitoring, which can track data on patients with chronic conditions (diabetes, asthma) or those who have been released after treatment (heart conditions, stroke recovery). Mobile health (mHealth) technologies are also being purchased directly by patients through applications on smart phones and other devices, allowing patients to collect their own data which, as technology improves, will be increasingly integrated with healthcare provider systems. Of course with any type of data collection and transmission, there are always privacy and HIPAA issues of which providers need to be aware. Physicians participating in any paid testing of mHealth devices/technology, or who may receive free technology as a part of a telemedicine model, must also remain vigilant concerning state and federal anti-kickback laws and similar restrictions.

The market for telemedicine is unlimited at this time. Even employers are getting on board, encouraging the use of telehealth from work to decrease absenteeism and potentially keep people healthier. Universities and other locations where people congregate are likely next targets for telehealth as the mHealth technology and reimbursement opportunities mature. Although the opportunities are great, so are the potential pitfalls for those who fail to complete due diligence
before jumping into telehealth. Proper legal advice and guidance is key before devoting any time, or funds, to this expanding area of healthcare.

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