What is Telemedicine and How is It Being Used?

March 14, 2018

*Presented by:*

Attorney Karina P. Gonzalez

Florida Healthcare Law Firm

What is Telemedicine?

In Florida, “Telemedicine is the practice of medicine by a Licensed Physician or Physician Assistant where patient care, treatment or services are provided using medical information exchanged from one site to another via electronic communication.”

“Telemedicine does not include the provision of health care services through an audio only telephone, e-mail messages, text messages, facsimile transmission.”

“Telehealth” is at times used interchangeably with “Telemedicine”.

➢ Telehealth refers to a wider range of healthcare services that may or may not include clinical services.

What is important to know is that Telemedicine is not a separate medical specialty and does not change what constitutes proper medical treatment and services.

It is a delivery component for healthcare treatment and services nationwide and around the world.
Driving Telehealth

What is driving the use of telehealth?

➢ An anticipated continued expansion in advancing technologies, an aging population, healthcare practitioner shortages, and a greater acceptance by patients of more innovative treatment alternatives.

The American Telemedicine Association reports approximately 200 Telemedicine networks with 3,500 service sites currently operating nationwide.
Florida is experiencing health care provider shortages. There are 647 Federally designated Health Professional Shortage Areas (HPSA) in Florida for primary care, dental care and mental health.

It estimated that it will take 2,936 practitioners to eliminate these shortage areas in the state.

Florida Senate Bill # 280 (2018).
Healthcare Consumers

Increasingly, consumers now have a comfort level with fitness trackers, smart thermometers, virtual assistants, and electronic records which are helping to drive digital health.

We carry smart phones which have both voice and vision that allow us to have a platform to access telehealth in the comfort of our homes, offices and even hotel rooms while on vacation.
Modalities

Live Video (synchronous) – a live two-way interaction with a patient and provider using audiovisual telecommunications and technology.

Store and forward (asynchronous) – transmission of videos and digital images through a secure electronic communications system

Remote patient monitoring – personal health and medical data from an individual in one location, transmitted to a provider in a different location

Mobile health (mHealth) – smartphone apps designed to foster health and well-being
Clinical Activities Supported by Telehealth

The most frequent uses of Telehealth reported by Licensed health care facilities in Florida are in:

- Primary Medical Care,
- Specialty Care,
- Behavioral Counseling,
- Physical Therapy,
- Speech Therapy,
- Pharmacy,
- Home Health, and
- Radiology.
Telehealth Supports...

Patient provider interaction for follow-up, for example: Diabetes, Hypertension, Urgent Care.

Monitoring of patient health and activities, for example: Home Health monitoring equipment linked to a distant provider.

Provider to provider training.

Enhanced service capacity and quality, for example: small rural hospital emergency departments and pharmacy services.

Suppliers such as DME (Durable Medical Equipment) are using Telehealth transactions.
If Telemedicine is being delivered by a Florida Physician to a patient outside of the state, that creates an interstate practice.

While it is permissible to practice Telemedicine across state lines, there are challenges in Telemedicine.

The treating Physician, needs to be licensed in Florida, and also, in the state where the patient is receiving care.
Nationwide, there is an Interstate Medical Licensure Compact (IMLC) which offers a new, voluntary expedited pathway to licensure for Qualified Physicians who wish to practice in multiple states.

The mission of IMLC is to increase access to healthcare for patients in underserved or rural areas so they can more easily connect with medical experts using Telemedicine technologies. Twenty-one states have enacted Compact legislation. But, Florida has not joined the IMLC.
The Nurse Licensure Compact created a multi-state license where all participating states recognize the license. It was adopted by the Florida legislature in 2016.

Florida Law (Chapters 458 and 459) does not expressly address intrastate practice of Telemedicine. Florida does not require special licensure or registration to practice Telemedicine within the state.

The Florida Board of Medicine has promulgated administrative rules 64B15-14.0081, “Standards for Telemedicine Practice” and 64B8-9.014, “Standards for Telemedicine Prescribing Practice.”
These rules state that the practice of Telemedicine means the practice of medicine by a Licensed Florida Physician (allopathic or osteopathic) or Physician Assistant.

The standards of care remain the same regardless of whether they are providing healthcare services in person or by Telemedicine.

Florida recognizes that the physician-patient relationship may be established through a Telemedicine visit.
Controlled substances cannot be prescribed through the use of Telemedicine, except for psychiatric disorders, and for in-patients in a licensed Hospital.

No medications can be prescribed based solely on the receipt and review of electronic forms.
To prescribe or recommend treatment through Telemedicine, a Licensed Physician or Physician Assistant must have:

➢ Documented the patient evaluation including a patient history and physical exam to establish a diagnosis,

➢ Discussed treatment options with the patient, and

➢ Maintained contemporaneous records of care and treatment.

The Telemedicine practice rules do not apply to Emergency Medical Services provided by Emergency Room Physicians, Emergency Medical Technicians and emergency dispatchers.
Florida laws (Chapter 2016-240) created the Telehealth Advisory Council (Council) to make recommendations about Telehealth services in Florida to the Governor and Legislature by October of 2017.

The Council conducted an in-depth review of the current Telehealth landscape in Florida.

The Council reported that Florida DOH recognizes Telehealth as a modality for providing health services, but not a separate form of practice.
To clarify this issue, the following language is posted on all DOH’s Board and Council webpages:

“The use of Telehealth technology by Florida licensed healthcare practitioners for the purpose of providing patient care with the state of Florida is not precluded by Florida law. Telehealth technologies may be employed for patient care as long as such technologies are used in a manner that is consistent with the standard of care.”

If the individual Boards determine a need for rules related to standards of care for providing services via Telehealth, each Board can pursue the issue specifically through its rule making authority.
There is some confusion in reimbursements for Telehealth. This is happening because there is no uniformity in payment systems for Telemedicine among any of the governmental or private payors. Many commercial payors provide some form of coverage for Telehealth.

Some states, not Florida, have passed Telehealth parity laws that require private payors to reimburse Telehealth in the same way as a comparable in-person visit.

The Center for Connected Health Policy disclosed that as of September 2017, thirty-four (34) states and the District of Columbia have established health insurance coverage parity laws to address gaps in coverage for Telehealth services.
Commercial payors have flexibility to cover Telehealth according to their own requirements and guidelines.

While traditional Medicare fee for service covers Telemedicine, there are certain hurdles such as the requirement that the patient must be at an originating site for the transaction to be paid and for the visit to be considered compliant with Medicare. This hurdle is contrary to a practice where patients have the flexibility to receive service in their homes, in their offices or in a location convenient to them.

If you are setting up a Telehealth practice and will accept Medicare Advantage patients also known as Medicare Part C, you need to call the individual payor and get a copy of their reimbursement and billing guidelines for these visits. This will
Florida Medicaid reimburses some services under Medicaid fee-for-service. Many Medicaid beneficiaries are enrolled in Florida’s Medicaid Managed Care plans which are authorized to cover telehealth services. Medicaid fee-for-service reimburses live video telemedicine for Behavioral Health Services, dental services, Evaluation and Management and interpretation of diagnostic testing results by a Florida licensed physician.
Reference Resources:

“American Telemedicine Association” provides access to many resources:
Case studies
Forms (Evaluation, Informed Consent, ROI)
Practice Guidelines and Resources (by specialty area)

“The Southeastern Telehealth Resource Center” provides resources and
guidance to practitioners in Florida for implementing and expanding
Telehealth services.

“Florida Report on Telehealth Utilization and Accessibility”, Agency for
Health Care Administration, December 2016.

“Expanding Florida’s Use and Accessibility of Telehealth”, Telehealth
QUESTIONS

Contact Karina Gonzalez

Karina@FloridaHealthcareLawFirm.com


(888) 455-7702