

THE TIME IS NOW – Telemedicine on the Frontlines

Amundsen Davis Health Care and Corporate Alert
March 24, 2020

Recent legislation underscores the opportunity telemedicine has in our community. Now, more than ever there is a need for telemedicine and the services it provides. Four major segments of the population can benefit from the telemedicine initiatives: (a) those suspected of contracting COVID-19; (b) those sick, but not due to COVID-19, however they are considered high risk (e.g. seniors, those with compromised immune systems or chronic illnesses); (c) those that are healthy and need ready access to health care such as pregnant mothers or new born babies; and (d) health care workers. Also, with elective surgeries canceled and displaced health care workers there are many individuals well-positioned for job opportunities in telemedicine.

Some examples of recent legislation easing restrictions and opening doors:

- **Illinois** House Bill 1459: enacted to enhance the Nurse Licensure Compact and allow 34 other states to practice immediately in Illinois, which would help with the nurse shortage in Illinois. Illinois expects a shortage of 21,000 nurses in 2021. Governor Pritzker noted in his press conference on March 20, 2020 that in addition to the House Bill 1459 allowing nurses to practice across state lines, Illinois should be looking at other “scope of practice” health care providers to enable Illinois to expand services.
- Section 1135(b) of the Social Security Act 42 U.S.C. Section 1320 b-5. The U.S. Health and Human Services finalized licensure waivers that would permit physicians participating in federal health care programs to receive payment for telemedicine services in states where they are not licensed. It is important to note that state law continues to govern whether or not a physician is allowed to practice in that state without being licensed by that state.
- On March 20, 2020 **Indiana** Governor Eric J. Holcomb announced State Executive Order 20-05 which included several measures aimed at telemedicine including: (a) mental health professionals permitted to practice via telemedicine; (b) advance practice registered nurses allowed to provide services in multiple locations; and (c) suspending telehealth restrictions and requirements for face-to-face encounters for health care services and prescribing which will increase the use of telehealth for statewide services such as Medicaid covered services, mental health services, and substance use disorder treatment and prescribing services.

PROFESSIONALS

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- **Missouri** Governor Parson issued Executive Order 20-04 on March 17, 2020 which suspended provisions of Section 334.108 and Section 191.1146 and 20 CSR 2220-020(11) relating to telemedicine and pharmacology for telemedicine, in order to decrease the risk of exposure to both health care providers and patients by easing restrictions.
- On March 17, 2020, the U.S. Department of Health and Human Services Office of Inspector General issued a Policy Statement that health care providers will not be subject to administrative sanctions for reducing or waiving cost-sharing amounts for telehealth services furnished to Medicare beneficiaries during the COVID-19 outbreak. This enables Medicare beneficiaries to receive care, prescriptions, preventative screenings, and mental health services, without going to a health care facility.
- The Section 1135 Waiver went into effect on March 15, 2020 and was retroactive to March 1, 2020. It will remain in effect until the emergency is terminated or no later than 60 days from the date the waiver was issued. Advocates of telemedicine technology are hopeful that this experience will support the continued implementation of regulations that ease the expansion of telemedicine platforms.

Since State law governs whether or not a physician may practice in that state, the **Interstate Medical Licensure Compact Act (IMLCA)** is an attractive option for many. The IMLCA is between 29 states, the District of Columbia and the Territory of Guam involving 43 different medical and osteopathic boards that offer an expedited way to become licensed in multiple jurisdictions. The practitioner selects a state of residency and additional states in which he or she wishes to practice. One application is submitted. Payment is submitted with the application for the state of residency of \$700.00 and additional payment is made for each additional state in which the practitioner wishes to practice.

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