Practicing telemedicine presents a large opportunity for physicians and their patients, but there are also liability risks that need to be addressed. First and foremost, it’s important for you to know and understand the laws in your state prior to practicing.

Obtain Licensure

Having the proper medical license for practicing telemedicine will more than likely be part of your state laws. Though there are efforts being made to allow physicians to treat patients located outside of their state, the majority of states require that you have a medical license in that state before treating a patient.

Several states have adopted by law in whole or in part and are members of the Interstate Medical Licensure Compact. If a physician is licensed in a compact state they can obtain a medical license in another state through a streamlined process offered by the Interstate Medical Licensure Compact.

Standard of Care

The standard of care is generally defined as that level of care that a similarly qualified healthcare professional under a similar set of circumstances would have provided.
The standard of care for telemedicine must comply with the standard of care for an in-person meeting. Occasionally, to correctly diagnose and treat the patient, the telemedicine physician will need to use peripheral devices for additional diagnostic testing. This will allow for a better assessment of the patient’s condition.

There is some question as to whether the standard of care at the physician’s location or the standard of care at the patient's location must be met. More and more though, courts are recognizing the standards set forth by the American Telemedicine Association as the appropriate standard of care. [1]

Medical Malpractice: Are you covered?

Checking with your medical malpractice provider regarding telemedicine coverage is crucial prior to beginning a telemedicine practice. Many professional liability providers exclude coverage for telemedicine services. If this is the case, physicians will need to secure a separate policy for telemedicine.

Informing patients

Though many patients may be excited about telemedicine services offered, it is extremely important that the physician explains the risks associated with telemedicine. Some, but not all of the risks include exposure of medical record to hackers, power failure, loss of communication, loss of records and many more. Discussing these issues with patients could help minimize any potential issues.

For more information about Telemedicine please check out our Toolkit. [2]

The information provided in this resource does not constitute legal, medical or any other professional advice, nor does it establish a standard of care. This resource has been created as an aid to you in your practice. The ultimate decision on how to use the information provided rests solely with you, the PolicyOwner.

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