Telemedicine & Scope of Practice
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Overview

• Pressing Realities
• Opportunities
• Regulatory Structures
• Scope of Practice
• Risk Management

Pressing Realities of Traditional Practice Models

• Declining volumes, margins
• Value-based, population health
  – Patient selection (acute/chronic)
• Data Analytics
  – Regulator, Payor, Practice
• Retail Medicine
  – Price shopping, narrowing networks, exchanges
Efficacy

The Empirical Foundations of Telemedicine Interventions for Chronic Disease Management, Telemedicine & e-Health, Bashshur, et. al., 2014

- **Results**: Chronic diseases managed with telemonitoring provided fewer and shorter hospital admissions, fewer emergency room visits, less severe illness and reduction in mortality.
  - **CHF**: Tele-monitoring coordinated system of care - chronic
  - **Stroke**: tPA during Golden Hour, CT scan early - acute
  - **COPD**: telespirometry (lung function) – specialists by teleconsultations
Technology is Changing Patient Behavior

• mHealth is driving consumer demand – technologically sophisticated patient
  • Apple HealthKit
    • Duke and Stanford, prominent US hospitals are planning trials for chronic disease patients
  • Google “Talk to a Doctor Now” search service
    • Scripps Health & One Medical Group

• Most hospitals already provide care by video & static data delivery
• Brand loyalty/engagement - “stickiness”

Courtesy of Dartmouth-Hitchcock

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Telemedicine Reimbursement

- Inconsistent Insurance Requirements & Payment Streams
- Study & Negotiate Reimbursement Policies
  - Caution that claims submitted are compliant with payor policy
  - American Telemedicine Association (ATA) 50 State Survey
  - California Telehealth Resource Center Reimbursement Guide
- Clinical/Financial/Technological Systems Integrations (ACO)
  - System design and responsibilities
  - Anti-Kickback, Stark, Antitrust, State referral laws

Telemedicine Regulatory Structures

- FDA – medical devices
- FCC – wireless spectrum
- OCR – HIPAA/HITECH
- FTC – Breach Notification Rule
- Office for National Coordinator for Health Information Technology – standard development and coordination
- DEA – no controlled substances without in-person exam
- Armed Forces – federal employees not subject to state regulation (innovation)
- International – regulations of country (provider/patient-based)
  - Foreign Corrupt Practices Act (FCPA)
Telemedicine Regulatory Structures

Federation of State Medical Boards
Proposed changes require state approval (legislatures and medical boards)

- **Model Telemedicine Policy**
  eliminates in person face-to-face

- **Interstate Medical Licensure Compact**
  streamlined application process
Telemedicine Regulatory Structures

- **Texas by Example:**
  - **Established Medical Site:** hospital or clinic with required medical professionals and equipment
  - Licensed or certified Patient Site Presenter
  - No limitations on type of care
  - Standards are same as traditional in-person setting
  - Initial and follow-up visits
  - Distant site provider may treat new condition with 72 hour physician face-to-face follow-up if condition continues
  - **Follow-up:** videoconferencing with live feed from patient home
    - Initial diagnosis made in person or at Established Medical Site
  - **On-Call:** physicians of same specialty & provide reciprocal service may provide on-call care for each other’s active patients
Scope of Practice Issues – “Top of the License”

- Definition of the practice of medicine
  - Medical Practice Act
- Supervision of non-physician providers
- Independent diagnosing and prescribing
- Prescriptive Authority Agreements
- Telepresenters: licensed or certified
- Pharmacists
- Retail: “Big Box” stores
Telemedicine Risk Management

- **Compliance Program**
  - Contractual arrangements
  - Privacy & security around data transmission
  - Email, text and website
  - Physician-patient relationship (initiation & termination)
  - Informed consent
  - Continuity of care (referral & on-call)
  - Medical records
    - Substance abuse treatment records
  - System integrity
  - FCPA - International
Telemedicine Risk Management

Operational Standards

- Standard of care
- Clinical standards/algorithms
- Administrative standards
  - Organizational
  - Provider
- Technical standards
- Vendor relationships
  - Hardware, software, broadband, the Cloud
  - Infra-structure vendors (subcontractors)
Virtual Dictation
Augmedix allows doctors to reclaim valuable time and energy, so they can focus on what matters most – caring for patients.

Telemedicine
To be able to connect on demand, and have a synchronous video conversation with a physician.
Resident Training
Taking a resident’s perspective while operating on a patient allows surgeons to understand how well the procedure is being executed.

Augmented Reality
Philips Healthcare has provided a way to overlay information directly into the clinician’s field of view.
EMS Communications
Provides direct field of view and communication between EMS staff and emergency department specialists for triage of acute stroke, heart attacks, and trauma out in the field.

Surgical Training
Enables walking an audience through a procedure via direct point of view.
Improved Rounds
Beth Israel Deaconess Medical Center developed a custom information retrieval system that lets doctors scan a QR code on the wall of each room to call up patient information.

Patient Experience
With Google Glass playing a growing role in healthcare, patients will get world-class care from the comfort of their homes.
**Procedure Analysis**

Allows clinicians to review emergency triage and operating procedures for training and self-assessment.

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**Patient Communications**

For nurses, patient alarms and communications via Glass would allow a more natural workflow compared with traditional wireless phones and pagers.
Improved Visibility
In the tight space of a surgical procedure, sharing perspectives from multiple viewing angels will improve real-time visibility and offer recorded playback for future use.

Acute Patients
Innovative pilot project GRACE, by Cronos Group, shows how Google Glass can be leveraged to assess acute patients and relay info to ER teams at the hospital.
Patient Care Instructions
Glass could improve records by logging what has been said to the patients and families during consultations.

Faster Access to Information
Hands-free access to patient records, in areas such as the emergency department, will allow clinicians to retrieve info without taking their attention away from the patient.
Telemedicine & Scope of Practice
Historical Legislative Perspective and Preview of 2015 Topics

Nora Belcher, Executive Director
Texas e-Health Alliance
SB 7, 2013
Telemedicine in Nursing Homes
“That a managed care organization providing services under the managed care program, to the greatest extent possible, offers nursing facility providers access to:

(A) acute care professionals; and
(B) telemedicine, when feasible and in accordance with state law, including rules adopted by the Texas Medical Board.”

Telemedicine Bills in 2013

• SB 830 by Schwertner- allowed for the use of telemedicine to provide the on-call trauma physician services required for Level IV trauma centers.
  — This was a DSHS issue related to their trauma license, not a Medical Board issue/licensure issue, and it was resolved without needing to pass the bill.
• HB 1470 by Laubenberg- amended Occupations Code to remove the board's ability to require a face to face evaluation of the patient, but then required an initial face to face to establish the physician patient relationship.
  — The introduced bill would have triggered a very large fiscal note from the universities that administer the correctional managed care program, and the bill author chose not to request a hearing.
Telemedicine Bills in 2013

- HB 1806 by Smithee - amended the Insurance Code to remove the requirement for a face to face evaluation or a referral before telemedicine services are provided to a patient. It also placed some additional prohibitions on telemedicine services such as a ban on prescribing chronic pain medications via telemedicine.
  - It is unclear as to whether the change to the Insurance Code would allow physicians to practice outside the scope of their license, as opposed to making a change to the Insurance Code that would allow insurers to reimburse for telemedicine services outside their license.
- HB 1806 was amended in committee to include HB 2017 by Price, which amended the Insurance Code to ensure nondiscrimination against physicians in payment for telephone consultation services. The bill was voted out of committee but was not heard on the House floor.

Topics for 2015 - Consumer Telemedicine

- Current Texas Medical Board rules require a face to face visit or a referral before a patient can receive telemedicine services from a non-clinic location
- Tech companies and insurers are developing totally virtual clinic models in response to consumer demand and increasing sophistication of devices and peripherals
- Long term view: The legislature will have to weigh access and convenience for consumers and businesses vs. some risk that virtual visits may not present the physician with 100% of the needed data
Topics for 2015 - Remote monitoring

– Medicaid remote monitoring benefit was created by SB 293 in 2011
– Benefit was limited in scope and confined to certain diagnoses and included a Sunset provision for the benefit unless recreated by the Legislature in 2015
– Long term view: The shift to managed care makes the Medicaid fee for service rule less important, but still necessary. Medicare penalties for readmission rates have strongly increased hospital interest in this benefit.

Closing Thoughts

• Medicaid has shifted in terms of policy and now views telemedicine/telehealth as an essential tool
• Medicaid is still skeptical of the value of home telemonitoring
• Commercial insurers are aggressively pursuing virtual care models
• Scope of practice is still the battleground issue