TITLE 10. DEPARTMENT OF HEALTH AND MENTAL HYGIENE

SUBTITLE 32. BOARD OF PHYSICIANS

CHAPTER 05. TELEMEDICINE

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.01 Scope.

A. This chapter governs the practice of medicine using telecommunication systems as an adjunct to, or replacement for, traditional face-to-face patient visits.

B. This chapter does not apply to the use of an electronic means by a treating physician licensed in Maryland who is seeking consultative services of another licensed health care provider with respect to an individual patient.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

(1) Consultative Service.

(a) "Consultative service" means a service provided by a physician for the sole purpose of offering an expert opinion or advising the treating physician about an individual patient.

(b) "Consultative service" does not include:

(i) Decisions that direct patient care; or

(ii) Interpretation of images, tracings, or specimens on a regular basis.

(2) "Face-to-face" means within each other's sight and presence.

(3) "Group practice" means a group of two or more health care practitioners legally organized as a partnership, professional corporation, foundation, not-for-profit corporation, faculty practice plan, or similar association:

(a) In which each health care practitioner who is a member of the group provides substantially the full range of services that the practitioner routinely provides through the joint use of shared office space, facilities, equipment, and personnel;

(b) For which substantially all of the services of the health care practitioners who are members of the group are provided through the group and are billed in the name of the group, and amounts so received are treated as receipts of the group; and

(c) In which the overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined on an annual basis by members of the group.

(4) Interpretive Services.

(a) "Interpretive services" means official readings of images, tracings, or specimens through a telemedicine link.

(b) "Interpretive services" includes remote, real-time monitoring of a patient being cared for within a health care facility.

(5) "Notice of privacy practices" means a written statement that meets the:

(a) Requirement of the Health Insurance Portability and Accountability Act of 1996; and

(b) Standards found at *45 CFR § 164.520*, as amended.

(6) "Physician-patient relationship" means a relationship between a physician and a patient in which there is an exchange of individual, patient-specific information.

(7) "Real-time" means simultaneously or quickly enough to allow two or more individuals to conduct a conversation.

(8) "Telemedicine" means the practice of medicine from a distance in which intervention and treatment decisions and recommendations are based on clinical data, documents, and information transmitted through telecommunications systems.

.03 Licensure.

Except as specified in *Health Occupations Article, § 14-302*, Annotated Code of Maryland, an individual shall be a licensed Maryland physician in order to practice telemedicine if one or both of the following occurs:

A. The individual practicing telemedicine is physically located in Maryland;

B. The patient is in Maryland.

.04 Standards Related to Telemedicine.

A. A physician, including a physician in a group practice, who practices telemedicine using a website to communicate with patients, shall:

(1) Disclose on the website the following:

(a) Licensure status and Maryland physician license number, which may be accomplished as follows:

(i) For a website sponsored by a group practice, disclosure of the licensure status and physician license number of each physician practicing within the group;

(ii) For a website sponsored by a health insurer or HMO licensed in Maryland, identification of the health plan or HMO that has credentialed the physicians, and the name, Maryland license number, and licensure status for all Maryland-licensed physicians using the website; or

(iii) Disclosure of the names, licensure status, and Maryland physician license numbers of each individual physician practicing through the website;

(b) Physician ownership of the website, if applicable;

(c) Fees for services offered on the website, to be disclosed before a patient incurs any charges;

(d) Financial interest of the physician or group practice in the products or services advertised or offered on the site, if applicable; and

(e) The notice of privacy practices used by the physician, group practice, or HMO, or a statement regarding what user data is being collected and how the data will be used;

(2) Develop a procedure to verify the identification of the individual transmitting a communication;

(3) Develop a procedure to prevent access to data by unauthorized persons through password protection, encryption, or other means; and

(4) Develop a policy on how soon an individual can expect a response from the physician to questions or other requests included in transmissions.

B. A physician, including a physician in a group practice, who practices telemedicine using a website to communicate with patients, shall communicate the policies established in § A of this regulation, via the website of the physician or group practice, or by other means, to any individual with whom the physician exchanges or intends to exchange information.

.05 Patient Evaluation.

A. A physician shall perform a patient evaluation adequate to establish diagnoses and identify underlying conditions or contraindications to recommended treatment options before providing treatment or prescribing medication.

B. A Maryland-licensed physician may rely on a patient evaluation performed by another Maryland-licensed physician if one physician is providing coverage for the other physician.

C. If a physician-patient relationship does not include prior in-person, face-to-face interaction with a patient, the physician shall incorporate real-time auditory communications or real-time visual and auditory communications to allow a free exchange of information between the patient and the physician performing the patient evaluation.

.06 Standard of Quality Care.

A. A physician shall ensure that the quality and quantity of data and other information is sufficient in making medical decisions.

B. Except when a physician is performing interpretive services, the physician shall perform a patient evaluation that meets the requirements set forth in Regulation .05 of this chapter before providing recommendations or making treatment decisions for a patient.

C. When a physician is providing interpretive services, the physician shall ensure that there is no clinically significant loss of data from image acquisition through transmission to final image display.

D. A physician practicing telemedicine shall:

(1) Except when providing interpretive services, obtain and document patient consent;

(2) Create and maintain adequate medical records;

(3) Follow requirements of Maryland and federal law and regulations with respect to the confidentiality of medical records and disclosure of medical records; and

(4) Adhere to requirements and prohibitions found in *Health Occupations Article, §§ 1-212, 1-301-- 1-306*, and *14-404*, Annotated Code of Maryland.

.07 Physician Discipline.

The Board shall use the same standards in evaluating and investigating a complaint and disciplining a licensee who practices telemedicine as it would use for a licensee who does not use telemedicine technology in the licensee's practice.