



AN INTRODUCTION TO **TELEPSYCHIATRY**



Telemedicine, and specifically telepsychiatry, has been practiced in this country since at least the mid-1960s. In 1964, the Nebraska Psychiatric Institute received a grant from the National Institute of Mental Health to link the Institute with Norfolk State Hospital, over 100 miles away, by Closed-Circuit Television (“CCTV”). Later, the Institute was also linked to the Omaha Veterans Administration (VA) Hospital and other VA Hospitals.

Several other telemedicine programs also started in the late 1960s and throughout the 1970s, mostly to provide services to rural or remote populations, or to provide access to specialists in towns with only general practitioners.¹ As of 2012, the American Telemedicine Association estimated that there were about 200 established telemedicine networks involving almost 3,000 sites.²

As the use of technology in medicine rapidly expands, it is important to understand what the various terms used mean, partly so that activities that are intrinsically different do not become confused by lumping them together under a common term. To begin, we should understand the difference between the terms “telemedicine” and “telehealth.”

DEFINITIONS

“Telemedicine” is now generally thought of as one component of “telehealth.” Although different agencies and organizations use slightly different definitions, “**telehealth**” essentially encompasses all applications of technology to the healthcare field. This includes but is not limited to providing distance medical education, certain public health endeavors, health administration, and long-distance clinical care.³

“**Telemedicine**” is generally defined as being limited to the use of technology to facilitate clinical care at a distance. For example, the Centers for Medicare and Medicaid Services define telemedicine as “...the use of medical information exchanged from one site to another via electronic communications to improve a patient’s health.”⁴ The American Telemedicine Association has a substantially similar definition.⁵

“**Telepsychiatry**” is then a subset of “telemedicine.” Throughout this series of articles, when we use the term “telemedicine” or “telepsychiatry” we are referring specifically to those activities that are performed at a distance that would constitute the practice of medicine.

TELEHEALTH:

Encompasses all applications of technology to the healthcare field; includes, but is not limited to:

› **TELEMEDICINE:**

Use of technology to facilitate clinical care at a distance; technology used could be telephone, email, or real-time video conferencing; includes:

» **TELEPSYCHIATRY:**

Use of technology to facilitate psychiatric care at a distance.

THRESHOLD QUESTIONS

Before engaging in any telehealth activity, the first step is to consider this threshold question - what exactly will you be doing?

For example, will you be providing diagnoses or prescriptions? Will you be doing psychoanalytic therapy or cognitive behavioral therapy? Will you treat patients with schizoaffective disorder or major depression? Will you use telephone, email, video conferencing, or some other technology? Perhaps you will be providing consults to general practitioners, or to hospital emergency departments during hours when they do not have a psychiatrist in the hospital.

» **THRESHOLD QUESTIONS:** What exactly will I be doing?

SUBSEQUENT QUESTIONS

Once you have determined exactly what it is that you will be doing and how you will be doing it, there are at least two subsequent questions to be answered prior to engaging in telehealth activities.

Have you met all applicable legal requirements? Depending on the type of activity and the technology utilized, there may be legal requirements that must be met. For example, if you are using video conferencing technology to treat patients located in a different state than where your office is located, there may be statutes and regulations addressing specific telemedicine requirements in both states that would need to be complied with. Among other things, you may be required to have a medical license in the state where the patient is located.

Can you deliver appropriate clinical care? As discussed below, the way care is delivered does not alter the standard for care to which physicians will be held.

SUBSEQUENT QUESTIONS:

- » What are all legal requirements?
- » Can I deliver good clinical care?

QUESTIONS TO ANSWER BEFORE ENGAGING IN TELEHEALTH:

1.

Do you need any additional medical licenses?

An important factor to consider if you will be doing telemedicine is the location of your patients. For example, will they be in a facility that lacks a psychiatrist but has other physicians, or will they be in their own homes? Perhaps most importantly, will they be in the same state that you will be in during the session? The vast majority of state medical boards now require that physicians engaging in telemedicine be licensed in the state in which the patient is located.⁶

2.

Can you meet the patient's clinical needs?

When treating patients remotely, there can be many barriers to effective clinical care. For example, if you are treating a patient at a distance only by email, how will you be able to assist your patient in a clinical crisis? Do you know the patient's home address? Do you know how to have the patient involuntarily committed? Do you know a telephone number for the local police?

STANDARD OF CARE IN TELEMEDICINE

Understanding the standard of care related to telemedicine is crucial. Although “the standard of care” is a vague and often contentious concept, it represents the idea that physicians should provide at least minimally acceptable and clinically appropriate diagnosis and treatment to all patients, regardless of circumstances. It is becoming clearer that **telemedicine as a delivery mechanism does not alter the standard to which physicians will be held.**

There are many sources that may help define the standard of care, such as peer-reviewed studies, professional association (AMA, APA, etc.) treatment guidelines, medical texts and treatises, and licensing board policies. Rarely is any one source a definitive statement of the standard of care, but rather each contributes to a discussion about whether a given action is acceptable medical practice.

From a risk management perspective, licensing board statements are particularly important. After all, if an aggrieved patient files a complaint with the board, you will be investigated by the same entity that issued a statement potentially relevant to your conduct. Having conformed to the board’s stated position then makes you more likely to prevail in the investigation, whereas having ignored the board’s position may place your license in jeopardy.

KEY POINT:

Utilizing telemedicine does not alter the standard of care to which the physician will be held - it is the same standard of care that would apply if the patient was in the physician’s office or facility.

LICENSING BOARD EXAMPLES

New York’s Board for Professional Medical Conduct has made it clear that there is not a different standard for telemedicine. Their Special Committee on Telemedicine stated “All the current standards of care regarding the practice of medicine apply. The fact that an electronic medium is utilized for contact between parties or as a substitute for face-to-face consultation does not change the standards of care.” The Special Committee also references a statement by the American College of Obstetricians and Gynecologists, which said “The standards of care for medical practice apply with equal force and vitality to telemedicine if a physician-patient relationship is deemed to exist.”⁷

California’s Medical Board has been equally explicit about the standard – “The standard of care is the same whether the patient is seen in-person, through telemedicine or other methods of electronically enabled healthcare.”⁸

EXAMPLES OF LOST ABILITIES IN TELEMEDICINE

› TELEPHONE:

Ability to see, smell, or touch the patient.

› EMAIL:

Ability to see, smell, hear, or touch the patient; ability to confirm the person is the patient.

› REAL-TIME VIDEO CONFERENCING:

Ability to smell or touch the patient.

Medical board statements do not actually define the standard of care. However, they demonstrate that there are certain things that a physician should carefully consider before providing telemedicine services. In particular, the physician should consider which tasks would be expected of them should the encounter take place with all participants in the same room, and then examine the ways in which the circumstances surrounding the arrangement – including the particular technology to be used – are likely to impact his/her ability to perform those tasks.

In the case of treatment, these statements mean that the “minimally acceptable” evaluation and treatment is the same whether the patient is in your office or on the other side of the country. Merely defining what you would be expected to do may take some careful thought. What cues would you be expected to pick up on if the patient was in your office? What kinds of evaluations would you be expected to perform, and what interventions might you be expected to do?

Once you have defined what would be expected of you were the patient in your office, you should evaluate what abilities you will lose by using telemedicine. One obvious loss is the ability to physically touch the patient, but other lost abilities may not be so readily identified. The final step would be to determine whether and to what extent you can mitigate these losses, and, after taking these mitigating steps, whether you can meet the expected standard of care.

MANAGING RISK IN TELEMEDICINE

Looking at all of this, we can begin to see a risk management process emerging for telemedicine.

First, you need to define the telemedicine endeavor.

Although narrower than the concept of telehealth, telemedicine still encompasses the entirety of the “practice of medicine” as enabled by telecommunications technology. It is important to set out what you will and will not be doing, and how you will go about doing it.

Second, you should evaluate the impact of the proposed telemedicine on your ability to meet the normal standard of care.

This will vary depending on what services you plan to provide, and to whom you plan to provide them, but the key is to remember that the standard you will be held to is the same as the standard for providing those services to someone who is in your office with you.⁹ Once you have evaluated lost abilities, you should begin to formulate risk management strategies to comply with all applicable laws and regulations, restore lost abilities where possible, and avoid situations where abilities that cannot be restored would be needed.

CONCLUSION

Telehealth is a rapidly-expanding field, and considering the recent developments in our nation's capital, is a field that is likely to continue expanding at an exponential rate. This means that telemedicine is very likely to become more prevalent than it already is. However, it is important to recognize the impact that the use of technology can have on both legal requirements for physicians, such as licensure, and on the ability of the physician to provide appropriate clinical evaluation and care.

Because the field is still developing, it is incumbent on physicians to carefully analyze the implications of any telemedicine they desire to engage in. However, with proper preparation and risk management, telemedicine may be a very useful tool for providing needed specialty services to patients who would not otherwise be able to access them.

ENDNOTES

- ¹ A Brief History of Telemedicine, R. Allan, June 29, 2006. <http://electronicdesign.com/components/brief-history-telemedicine>
- ² What is Telemedicine & Telehealth?, American Telemedicine Association. <http://www.americantelemed.org/learn/what-is-telemedicine>
- ³ See, for example, definitions from the Health Resources and Services Administration (<http://www.hrsa.gov/telehealth/>) and the Center for Telehealth & eHealth Law (<http://www.ctel.org>).
- ⁴ <http://www.cms.gov/Telehealth>
- ⁵ <http://www.americantelemed.org>
- ⁶ Federation of State Medical Boards Telemedicine Overview. August 2012. http://www.fsmb.org/pdf/grpol_telemedicine_licensure.pdf
- ⁷ <http://www.health.state.ny.us/professionals/doctors/conduct/telemedicine.htm>.
- ⁸ <http://www.mbc.ca.gov/licensee/telehealth.html>
- ⁹ Part of this evaluation should include looking at how the technology used implicates privacy and data security requirements, both under the federal HIPAA rules and under any state rules. It is not yet clear how courts or administrative bodies will go about determining which state's rules to apply when interstate telemedicine occurs. This topic will be addressed further in future articles discussing electronic records.

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Healthcare practitioners who complete this course will be able to:

- › Identify the factors that evidence the standard of care in telepsychiatry
- › Explain the need to contact state medical boards where patients treated remotely are located, if different from the state where they psychiatrists is located.
- › Illustrate the importance of knowing at each session the physical location of patients treated remotely.

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(800) 245-3333

PsychProgram.com

TheProgram@prms.com

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