



Rhode Island Board of Medical Licensure and Discipline

Guidelines for the Appropriate Use of Telemedicine and the Internet in Medical Practice

Section One: Preamble

Telemedicine has a place in the practice of medicine. Telemedicine is a tool which should enhance efforts to achieve optimal health outcomes for patients.

Telemedicine is defined very generally as the delivery of health care where there is no in-person exchange. Telemedicine, more specifically, is a mode of delivering health care services and public health utilizing information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from health care providers.

The Internet has had a profound impact on the practice of medicine and offers opportunities for improving the delivery and accessibility of health care. Studies show a growing number of physicians are utilizing the Internet to some degree in their practices and that patients want to receive certain medical services online¹. However, patient safety concerns, especially those related to providing medical services via the Internet, including but not limited to prescribing and dispensing medications, have created complex challenges for protecting the public.

The Rhode Island Board of Medical Licensure and Discipline (BMLD) recognizes that the Internet and Telemedicine offer potential benefits in the provision of medical care. The appropriate application of this technology can enhance medical care by facilitating communication with physicians and other health care providers, refilling prescriptions, obtaining laboratory results, scheduling appointments, monitoring chronic conditions, providing health care information and clarifying medical advice. However, it is the expectation of the BMLD electronic communications and interactions between the physician and patient should supplement and enhance, but not replace, crucial interpersonal interactions that create the very basis of the physician-patient relationship.

The BMLD has developed these guidelines to inform licensees as to the appropriate use of the Internet and Telemedicine in medical practice in Rhode Island.

It is the expectation of the BMLD that physicians who provide medical care, electronically or otherwise, maintain a high degree of professionalism and should:

- Place the welfare of patients first
- Maintain acceptable standards of practice
- Adhere to recognized ethical codes governing the medical profession

- Properly supervise physician extenders
- Protect patient confidentiality
- Maintain appropriate licensure (*Rhode Island license is needed if patient is in Rhode Island*)

Section Two: Parity of Professional and Ethical Standards

There should be parity of ethical and professional standards applied to all aspects of a physician's practice. When the use of Telemedicine or the Internet occurs in a physician's practice, the BMLD expects the following ethical standards to be observed:

Candor:

Physicians have an obligation to disclose clearly information (financial, professional or personal) that could influence patients' understanding or use of the information, products or services offered on any Web site offering health care services or information.

Privacy:

Physicians are required to comply with HIPAA and the RI Confidentiality Act, regardless of the medium.

Integrity:

Information contained on physician-sponsored Web sites should be truthful and not misleading or deceptive. It should be accurate, concise, up-to-date, and easy for patients to understand. Physicians associated with medical Web sites should strive to ensure that information provided is supported by current medical peer-reviewed literature, emanates from a recognized body of knowledge, and conforms to minimal standards of care. It should clearly indicate whether it is based upon scientific studies, expert consensus, professional experience, or personal opinion.

Informed Consent:

Delivery of medical services via the Internet requires expanded responsibility on the part of the physician in informing and educating the patient. A patient has the right to know what personal data may be gathered and by whom. Limitations as defined within HIPAA and the HITECH act should be observed and followed. It should be clearly explained to patients when online communication should not take the place of an in-person interaction with a health care provider.

Accountability:

Physicians have an obligation to provide meaningful opportunities for patients to give feedback about their concerns and to review and respond to those concerns in a timely and appropriate manner.

Section Three: An Appropriate Physician-Patient Relationship

The health and well-being of patients depends on a collaborative effort between physician and patient².

This relationship is complex and based on the mutual understanding between physician and patient of the shared responsibility for the patient's health care. The physician should recognize that the patient-physician relationship in Telemedicine and Internet medicine is inherently different. It is possible, if not probable, that the physician and patient will never meet in-person. It is the physician who has the professional responsibility to consider these differences in their

evaluation and management of the patient. The BMLD defines the beginning of the physicians-patient relationship as being clearly established when the physician agrees to undertake diagnosis and treatment of the patient and the patient agrees, whether or not there has been an in-person encounter between the physician (or other health care practitioner) and patient.

The physician-patient relationship is fundamental to the provision of acceptable medical care. It is the expectation of the BMLD that physicians recognize the obligations, responsibilities and patient rights associated with establishing and maintaining an appropriate physician-patient relationship whether or not face-to-face contact between physician and patient has occurred. However, whenever a patient's clinical presentation suggests the need for an in-person physical examination, the patient should be referred for an in-person evaluation which is documented in the medical record. Failure to make necessary referrals or progressions to treatments without doing so constitutes unprofessional conduct.

Section Four. Definitions

For the purpose of these guidelines, the following definitions apply:

“Medical Practice Site” means a patient-specific internet site designed to provide synchronous care, access to which is limited to licensed physicians, associated medical personnel and patients. It is an interactive site, with appropriate security and thus qualifies as a practice location. It requires a defined physician-patient relationship.

“General Health Information Site” means a non-interactive Internet site that is accessible by anyone with access to the Internet and intended to provide general, user non-specific information.

“Personal Health Information” means any personally identifiable information, whether oral or recorded in any form or medium, that is created or received by a physician or other health care provider and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual.³

“Physician-patient e-mail” means electronic-based communication between physicians (or their medical personnel) and patients within a professional relationship in which the physician has taken on an explicit measure of responsibility for the patient's care⁴.

“Passive tracking mechanism” means a persistent electronic file used to track web site navigation, that allows the web site to record and retain user-specific navigation information whenever the user accesses the Web site. Examples include “cookies,” “clear gifts” or “Web bugs”⁵.

“Web site” means an electronic source of health information content, commerce, connectivity, and/or service delivery⁶.

Section Five: Guidelines for the Appropriate Use of the Internet in Medical Practice.

The BMLD has adopted the following guidelines for physicians utilizing the Internet in the delivery of patient care:

Evaluation of the Patient

Evaluating a patient via Telemedicine or in-person is a dynamic, interactive experience which

should conclude with a customized care plan for the patient relevant to the chief complaint. A documented patient evaluation, including history and physical evaluation adequate to establish diagnoses and identify underlying conditions and/or contra-indications to the treatment recommended and/or provided, must be obtained prior to providing treatment, including issuing prescriptions, electronically or otherwise. Physical evaluation means using the tools and resources available utilizing telemedicine and the internet appropriately to come to a reasonable diagnostic conclusion. It is understood that a physical evaluation done via Telemedicine or the internet is inherently different than in the traditional in-person encounter.

Treatment

Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in face-to-face settings. Treatment, including issuing a prescription, based solely on an online questionnaire without an appropriate evaluation does not constitute an acceptable standard of care and is considered unprofessional conduct. The BMLD specifically highlights that prescribing controlled substances without an established in-person physician-patient relationship is prohibited. (Exception* a covering physician may prescribe a controlled substance if an established coverage agreement is in place and the quantity reflects the prescription is for a short duration)

Electronic Communications

Written policies and procedures should be maintained for the use of patient-physician electronic mail. Such policies and procedures should address (1) privacy, (2) health-care personnel (in addition to the physician addressee) who will process messages, (3) hours of operation, (4) types of transactions that will be permitted electronically, (5) required patient information to be included in the communication, such as patient name, identification number and type of transaction, (6) archival and retrieval, and (7) anticipated response or turnaround times, (8) quality oversight mechanisms and (9) compliance with HIPAA. Policies and procedures should be periodically evaluated for currency and be maintained in an accessible and readily available manner for review.

Sufficient security measures must be in place and documented to assure confidentiality and integrity of patient-identifiable information. Transmissions, including patient e-mail, prescriptions and laboratory results must be secure within existing technology (i.e., password protected, encrypted electronic prescriptions, or other reliable authentication techniques). Patient-physician e-mail, as well as other patient-related electronic communications that is pertinent to the diagnosis and treatment of the patient should be stored and filed in the patient's medical record.

Turnaround time should be established for patient-physician e-mail and medical practice sites should clearly indicate alternative form(s) of communication for urgent matters.

Informed Consent

An agreement should be employed documenting patient informed consent for the use of patient-physician e-mail and other text based communications. The agreement should be discussed with the patient to ensure his/her understanding of the guidelines. The agreement should include the following terms:

- Types of transmissions that will be permitted (prescription refills, appointment

scheduling, patient education, etc.)

- Circumstances when alternate forms of communication or office visits should be utilized
- Security measures, such as encryption of data, password protected screen savers and data files, or utilization of other reliable authentication techniques, as well as potential risks to privacy
- Hold harmless clause for information lost due to technical failures
- Requirement for express patient consent to forward patient-identifiable information to a third party
- A statement noting that the patient's failure to comply with the agreement may result in the physician terminating the e-mail relationship

Medical Records

The medical record should include copies of patient-related electronic communications, including patient-physician e-mail, prescriptions, laboratory and test results, evaluations and consultations, records of past care and instructions that are pertinent to the diagnosis and treatment of the patient. record.

Patient medical records should remain current and accessible for review and be maintained in compliance with applicable state and federal requirements.

Compliance with State and Federal Laws and Web Standards

Physicians should meet or exceed applicable federal and state legal requirements of medical/health information privacy. Physicians are referred to "Standards for Privacy of Individually Identifiable Health Information" issued by the Department of Health and Human Services (HHS)⁷. Guidance documents are available on the HHS Office for Civil Rights Web site at www.hhs.gov/ocr/hipaa.

Physicians are encouraged to comply with nationally recognized health Web site standards and codes of ethics, such as those promulgated by the American Medical Association, Health Ethics Initiative2000, Health on the Net and the American Accreditation HealthCare Commission (URAC).

Disclosure

Physician medical practice sites should clearly disclose:

- Owner of the site
- Specific services provided
- Office addresses and contact information
- Licensure and qualifications of physician(s) and associated health care providers
- Fees for online consultation and services and how payment is to be made
- Financial interests in any information, products or services
- Appropriate uses and limitations of the site, including providing health advice and emergency health situations
- Uses and response times for e-mails, electronic messages and other communications transmitted via the site
- To whom patient health information may be disclosed and for what purpose

- Rights of patients with respect to patient health information
- Information collected and any passive tracking mechanisms utilized

Accountability

Medical practice sites should provide patients a clear mechanism to:

- access, supplement, and amend patient-provided personal health information
- provide feedback regarding the site and the quality of information and services
- register complaints, including information regarding filing a complaint with the applicable state medical board(s)

Advertising/Promotion of Goods or Products

Advertising or promotion of goods or products from which the physician receives direct remuneration, benefits or incentives is prohibited.

Links

Physician Web sites may provide links to general health information sites to enhance patient education; however, the physician should not benefit financially from providing such links or from the services or products marketed by such links. When providing links to other sites, physicians should be aware of the implied endorsement of the information, services or products offered from such sites.

¹ AMA. Report of the Council on Medical Services, Medical Care Online

² AMA, Council on Ethical and Judicial Affairs, Fundamental Elements of the Patient-Physician Relationship

³ Health Web Site Standards, Version 1.0, 2001 URAC

⁴ Policy H-478.997, American Medical Association

⁵ Health Web Site Standards, Version 1.0, 2001 URAC

⁶ Health Web Site Standards, Version 1.0, 2001 URAC

⁷ Federal Register, December 28, 2000.