

Utah Telehealth Study – Summary Report

Prepared by Pilot Healthcare Strategies
for the Utah Division of Occupational and
Professional Licensing

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Top line observations

- As this report was being prepared in the first half of 2014, the activity level in the practice and policy environment relating to telehealth accelerated.
- Overall impression is topic highly fluid and dynamic, characteristic of emerging developments that undergo a relatively long periods of development and then approach a tipping point or threshold kicking off a new, heightened phase of development.

Topics researched

- Major trends, drivers and data points relative to the adoption of telehealth services with focus on public safety considerations and economic impacts;
- State law governing the administration of telehealth services delivered by licensed health care professionals;
- Federal law and regulations governing telehealth services delivered by health care professionals including federal Medicare/Medicaid provider reimbursement policy and federal guidance on telehealth services delivered by licensed health care professionals;
- Policy positions of national stakeholder groups with an interest in telehealth services delivered by licensed health care professionals.

Telehealth defined

- For the purposes of this project, the term “telehealth” broadly encompasses diagnosing, treating and monitoring patients remotely (versus co-located with a provider) using information and communications technology (ICT), also referred to as “telemedicine.”
- This definition closely follows that adopted by the World Medical Association in 2009, defining telehealth as the use of information and communications technology to deliver health and healthcare services and information over large and small distances.

Telehealth communication modes

- Interactive, real time, two-way communications between patient and provider.
- “Store and forward;” patient data shared between patients and providers and in consultations among providers
- Remote monitoring of patient data (such as by intensivists of critical care patients in a distant hospital.)

Telehealth communication modes

- Connection to remote provider from an institutional setting such as a clinic or hospital
- Connection to remote provider from patient's home
- Connection to remote provider from patient's mobile device

Major trends, drivers and data points relative to the adoption of telehealth services

REPORT SECTION 1

Telehealth practice poised for rapid growth

- Number of worldwide patients receiving telehealth services forecast to increase from less than 350,000 in 2013 to roughly seven million in 2018.

Source: IHS Technology, January 2014

- 2000s decade of start up activity setting stage for new, more robust phase of telehealth in current decade.



Drivers of telehealth

At start of current decade, driving factors converged:

- Public and private reforms of health care financing and delivery
 - Affordable Care Act enacted
 - Pressure from payers and ACA incentives to reduce hospital readmissions
 - Fewer primary care physicians as demand for primary care increases with newly insured under ACA reforms
- Demographics
 - Aging boomer cohort boosting demand for ongoing care and monitoring, particularly those with multiple chronic conditions
 - Millennials with native digital literacy expect access to any service online including health care

Drivers of telehealth

Information and communications technology

- Electronic Health Records
 - National Ambulatory Medical Care Survey (NAMCS) EHR Survey found 78 percent of office-based physicians used an EHR system, with adoption of basic EHR systems increasing 21 percent between 2012 and 2013.
- Continuing growth in Internet service and adoption
- Rapid adoption of portable devices in current decade
 - *Harris Interactive/HealthDay* survey (May 2013): More than 1/3 of respondents "very" or "extremely" interested in using smartphones or tablets to ask doctors questions, make appointments or get medical test results.

Drivers of telehealth

Information and communications technology

- Increase in Internet connectivity enabling videoconferencing between patients and health care professionals
 - Significant telecommunications market and regulatory obstacles, particularly outside of densely populated areas
- Videoconferencing could be major driver of telehealth in current decade
 - Some practitioners believe it could eliminate need for most office visits

Role of telehealth

- Telehealth emerging as a crucial building block in the delivery of care, according to panelists at a forum hosted in early 2014 by the Robert Graham Center for Policy Studies in Family Medicine and Primary Care.

Settings where telehealth provided by health care professionals

- Non-urgent primary care
- Consults among providers
- Emergency services
- Institutions such as schools and correctional facilities
- Hospital and hospital outpatient care
- Chronic disease management and home-based care to avoid hospitalization
- Home-based primary care of the elderly to avoid institutionalization
- Mental health

Quality of Care and patient safety

- Few studies on quality of care and patient safety for patients who received telehealth services
- Available studies indicate positive results:
 - Higher ratings of care by physicians and patients
 - Fewer medication errors in rural emergency departments

Quality of Care and patient safety

Quality of care concerns

- Some researchers caution more research is necessary to further assess the quality and safety of primary care delivered by telehealth
- Accuracy of diagnoses for conditions that require testing and follow up care
- Some practitioners believe telehealth adjunct to but not replacement for primary care physician relationship
 - Gaps in follow up care
 - Lack of integration of patient EHRs among mix of providers

Quality of Care and patient safety

Quality of care concerns

- Study published in early 2014 in journal *Health Affairs* (**first assessment of a telemedicine program offered to a large, diverse group of patients across the United States**) found few standards have been developed to guide practitioners on how to safely and effectively administer telehealth services
 - Study authors found providers consulted with patients with many diagnoses that typically require a physical exam, diagnostic testing, or both.
- One academic paper acknowledges significant potential benefits of home monitoring telehealth services for patients with multiple chronic conditions
 - Caveat: Current regulatory process does not provide adequate oversight and standards for these systems that transmit and process data (telehealth systems) critical for patient management.

Quality of Care and patient safety

Setting the standard of care for telehealth

As telehealth more closely approximates the traditional, co-located provider-patient encounter with the introduction of real time videoconferencing, questions arise as to what standard of care should govern:

- Should the same standard of care apply uniformly regardless of whether the patient encounter occurs in a co-located setting or remotely via telehealth?
- Or should new and additional standards be developed for the next generation of telehealth?

Quality of Care and patient safety

Setting the standard of care for telehealth

- Some maintain existing clinical risk management and patient safety processes within legacy healthcare platforms offer the structure, process and outcomes that are necessary to ensure telehealth programs are implemented and sustained in a safe, appropriate and effective way.
- Others believe that in order to ensure telehealth services maintain current levels of patient safety, underlying clinical, technology and business processes should be standardized as part of a systems approach to healthcare transformation.

**Federal and state law and regulations
governing telehealth services delivered by
licensed health care professionals**

REPORT SECTIONS 2 & 3

Federal law and regulation

The federal government defines and regulates the delivery of telehealth services in:

- Medicare and Medicaid practitioner reimbursement;
- Home and Community-Based Services for Elderly And Disabled Individuals;
- Food and Drug Administration law relative to online pharmacy; and
- Federal health care programs including the Public Health Service, Indian Health Service, and the Veterans Health Administration.

Federal law and regulation

Federal programs employ differing definitions of telehealth or telemedicine

- Relative to Medicare, Social Security Act defines “telehealth service” as “professional consultations, office visits, and office psychiatry services...and any additional service specified by the Secretary.”
- Social Security Act also defines telehealth services using location-based parameters including “originating site” (where the patient is located when receiving services) and “distant site” (the location of the practitioner while patient services are being delivered) as well as the scope of practitioners who may provide telehealth services.

Federal law and regulation

Medicare rules:

- “Telehealth services” encompasses an interactive telecommunications system using multimedia communications equipment that includes, **at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner.** The definition also includes the transfer of patient information to another provider for confirming a diagnosis and/or treatment plan.

Medicaid program guidance:

- “Telemedicine seeks to improve a patient's health by permitting two-way, real time interactive communication between the patient, and the physician or practitioner at the distant site. **This electronic communication means the use of interactive telecommunications equipment that includes, at a minimum, audio and video equipment.**”

Federal law and regulation

Federal law defines the types of practitioners who may be reimbursed under Medicare for telehealth services in two categories. The first is **physicians**, broadly defined as:

- Physicians and osteopaths
- Dentists
- Podiatrists
- Optometrists
- Chiropractors

The second category is defined in statute as “**practitioner**” and includes:

- Physician assistants, nurse practitioners, or clinical nurse specialists
- Certified registered nurse anesthetists
- Certified nurse-midwives
- Clinical social workers
- Clinical psychologists
- Registered dietitians or nutrition professionals

State law and regulation

- Wide variation among state statutes and regulations governing the delivery of telehealth services by healing arts licensees.
- Some states have relatively extensive bodies of law including five states that have enacted omnibus telemedicine or telehealth acts:
 - New Hampshire
 - New Mexico
 - Nebraska
 - Oklahoma
 - California
- Many states have minimal law and regulation.
- Several states have not enacted any statutes or promulgated regulations pertaining to the delivery of services via telehealth by licensed health care practitioners.

State law and regulation

Defining telehealth

- States vary in how they define telehealth (some use the term “telemedicine”)
- **Nearly half of all states define telehealth in the context of a live interaction between patient and provider.**
- California has adopted broad definition, defining telehealth as “the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care.”
- Most states exclude telephone, facsimile and electronic mail as stand alone telehealth communications modalities.
- Most states with telehealth laws include store and forward (use of information and communications technology to transmit data, images, sounds or video from one care site to another for evaluation) in the definition of telehealth; some exclude it.

State law and regulation

Practitioners

- Nearly all states regulate telehealth practice by physicians and osteopathic physicians, although small number do not (such as Ohio and South Dakota) where telehealth laws solely govern other licensed healing arts.
- Many states specifically regulate telehealth practiced by specified practitioners including:
 - Nurses
 - Physician assistants
 - Mental health providers
 - Audiologists and speech pathologists
 - Physical therapists
 - Optometrists
 - Dentists
- Only one state (West Virginia) has law specific to the practice of pharmacy in the context of telehealth, defining the practice of “telepharmacy” as the provision of pharmacist care by properly licensed pharmacists located within the United States through the use of telecommunications or other technologies. (A face-to-face physical examination adequate to establish the medical complaint must be performed by the prescribing practitioner.)

State law and regulation

Standards of practice

- Some states have put in place relatively extensive care standards regulating the use of telehealth by licensed health care professionals:
 - Florida
 - Kentucky
 - Louisiana
 - Maryland
 - Texas

State law and regulation

Standards of practice

States with more extensive law and regulation have adopted threshold requirements providers must meet in order to establish a telehealth provider-patient relationship before care is provided including:

- Informed consent to receiving care by telehealth
- Verification of patient's identity
- Written patient notification of provider's privacy practices
- An initial patient examination
- Disclosure to patient of risks, consequences and benefits of telehealth, right to withdraw consent, how to receive follow-up care or assistance in the event of an adverse reaction to treatment or if there is a telemedicine equipment failure
- Notice of how to file a complaint against the provider
- Access to pertinent portions of the patient's medical record and;
- Support staff trained to conduct telehealth patient visit, implement physician orders, identify where medical records generated by the visit are to be transmitted for future access, and provide or arrange back up, follow up, and emergency care to the patient

State law and regulation

Standards of practice

States with more extensive law and regulation have adopted ongoing provider requirements (after provider-patient relationship established) to ensure patient safety that govern the delivery of care via telehealth including:

- Protocols to prevent fraud and abuse through the use of telehealth medical services
- Adequate security measures to ensure that all patient communications, recordings and records remain confidential
- Procedures to prevent access to data by unauthorized persons through password protection, encryption, or other means
- Policies on how quickly patients can expect a response from the physician to questions or other requests included in transmissions and;
- Maintenance of a complete record of the patient's care.

State law and regulation

Standards of practice

- Several states incorporate a **parity standard** into their laws and regulations governing telehealth, explicitly stating standards of practice and professional misconduct apply equally to care provided patients via telehealth and in settings where patient and provider are co-located:
 - Colorado (Specifically includes telemedicine within the definition of practice of medicine)
 - Florida
 - Hawaii
 - North Carolina
 - Wisconsin (Telehealth must be “functionally equivalent to face to face contact.”)

State law and regulation

Telehealth practice across state lines

- Most states prohibit practitioners licensed in other states from delivering services via telehealth to patients residing within their jurisdictions.
- In about half the states, law is silent on delivery of telehealth services by health care professionals licensed in other states.
- Several states except from physician licensure requirements consultations between physicians, typically within the context of “store and forward” telehealth.
- Oregon allows telehealth monitoring by physicians licensed in other states in a single circumstance: to monitor surgical patients at health care facilities that have granted privileges and requested the state medical board grant active telemonitoring status.

State law and regulation

Telehealth practice across state lines

Nine states issue specialized telehealth licenses or certificates that permit practitioners licensed in another state to practice within their jurisdictions under certain conditions:

- Alabama
- Louisiana
- Montana
- New Mexico
- Nevada
- Ohio
- Oklahoma
- Tennessee
- Texas

State law and regulation

Telehealth practice across state lines

Some states effectively permit the limited interstate practice of telehealth within their jurisdictions by allowing practice under specified conditions by physicians licensed in bordering states:

- Texas
- Pennsylvania
- Maryland
- Washington

Or by reciprocal licensing laws:

- Alabama
- North Dakota
- South Dakota

Stakeholder group policy positions

REPORT SECTION 4

Stakeholder group policy positions

Federation of State Medical Boards

Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (April 2014)

- Defines telemedicine as “[T]he practice of medicine using electronic communications, information technology or other means between a licensee in one location, and a patient in another location with or without an intervening healthcare provider.
- “Telemedicine Technologies” are technologies and devices enabling **secure electronic communications and information exchange** between a licensee in one location and a patient in another location with or without an intervening healthcare provider.
- Telemedicine **generally not audio-only, telephone conversation, e-mail/instant messaging conversation, or fax.**

Stakeholder group policy positions

Federation of State Medical Boards

Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (April 2014)

- Virtual face to face interaction: Policy blends traditional practice -- where physicians develop a face-to-face, co-located doctor-patient relationship -- with advances in information and communications technology that would enable visual interaction using secure videoconferencing.
- Communications security requirement consistent with Health Insurance Portability and Accountability Act of 1996 (HIPPA) regulating the use and disclosure of Protected Health Information (PHI) held by "covered entities" including medical service providers.
- New physician-patient relationship may be established without an initial co-located, in person visit through the use of telemedicine technologies with the proviso the standard of care and other conditions are met.

Stakeholder group policy positions

Federation of State Medical Boards

Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine (April 2014)

- Key element of FSMB model policy is a standard of care parity principle:
 - In the context of a telehealth physician-patient relationship, physicians must be able to obtain sufficient patient information in order to develop a diagnosis and treatment plan in **order to meet the standard of care that would apply to patients seen in a traditional co-located physician office setting.**
 - FSMB model policy standard of care parity principle mirrors World Medical Association's (WMA) Standards of Practice/Quality of Clinical Care guidelines for physicians who use telehealth to provide health care services.

Stakeholder group policy positions

Model law

Several practitioner groups have developed model law incorporating telehealth including:

- National Council of State Boards of Nursing (NCSBN) (Interstate compact)
- National Association of Boards of Pharmacy (NABP)
- Association of Social Work Boards (ASWB)

Stakeholder group policy positions

Organizations with model law to facilitate the provision of care by telehealth across state lines via:

- Interstate compact
 - Federation of State Boards of Physical Therapy (FSBPT)
- Reciprocal licensure
 - Association of State and Provincial Psychology Boards (ASPPB) (7 states participating)
- Temporary (up to 30 days per year) privileging
 - Association of Social Work Boards (ASWB)
- Special telemedicine license
 - American Medical Association (AMA)

Stakeholder group policy positions

Support retention of state licensure authority:

- American Medical Association (AMA)
- National Council of State Boards of Nursing (NCSBN)
- National Association of Boards of Pharmacy (NABP)
- Association of Social Work Boards (ASWB)
- American Pharmacists Association (APhA)

Stakeholder group policy positions

Oppose state licensure authority:

- American Telemedicine Association (ATA)
- Alliance for Connected Care

Stakeholder group policy positions

Federal standard (or national licensure)

- Information Technology and Innovation Foundation (ITIF)
 - Supports federal standard for telehealth
 - If states fail to adopt standard, Congress should adopt a uniform national license for telehealth accepted in all states

Policy questions presented/possible topics for further study

Obstacles to care

- To what extent do patients require care by health care professionals licensed outside patients' state of residence in terms of type, amount and frequency?
- To what extent does state licensure create obstacles to the delivery of care via telehealth by health care professionals to patients outside their states of licensure?
- Are these obstacles having a significant adverse impact on patients' ability of to obtain needed care?

Policy questions presented/possible topics for further study

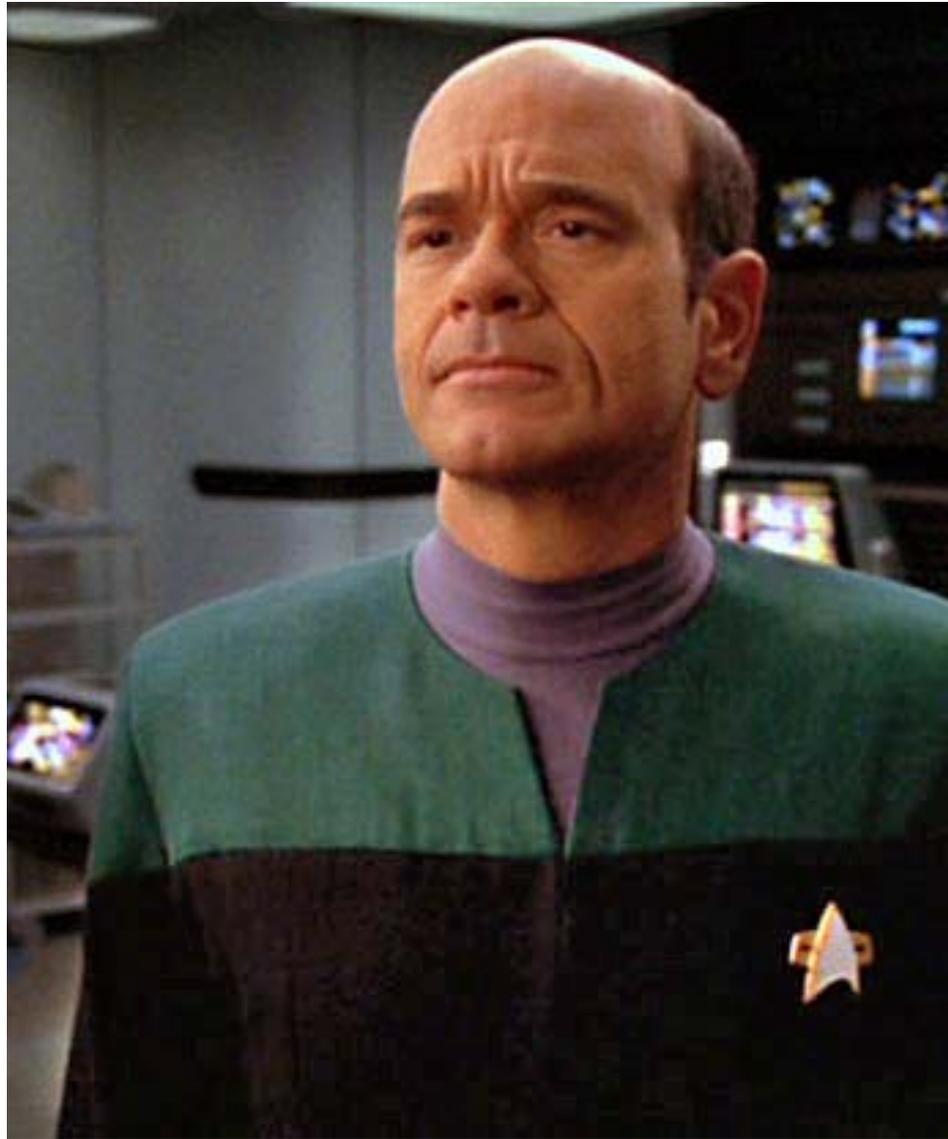
Licensing

- Does existing law provide sufficient leeway for health care professionals to provide services to patients located outside their jurisdiction of licensure?
- As an alternative or interim mode of flexibility to accommodate the interstate practice of telehealth by licensed health care professionals as policy and technical developments play out, should states consider 30-day “temporary privileging” for practitioners licensed in other states as proposed in the ASWB model act?

Policy questions presented/possible topics for further study

Telecommunications infrastructure

- Is telecommunications infrastructure sufficiently developed to enable nationwide application of the FSMB model policy guidance that defines telemedicine as “typically involv[ing] the application of secure videoconferencing...” If not, when will it reach that point?



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