

## Appropriate Use of Telemedicine

### Introduction

#### Background

Advances in technology, communication and data management have resulted in new approaches to delivery of medical care services, including those in which physician and patient are not in the same physical location, but interact using enabling technology. These new approaches, referred to as Telemedicine, are useful tools that, if employed appropriately, can provide important benefits to patients, including increased access to healthcare, access to healthcare professionals that are not available in the patient's home community, rapid availability of patient records, and a potential reduction in the cost of healthcare delivery. Realizing that these new practice forms will require oversight and regulation, the Washington Medical Commission (Commission) developed this guideline, which describes how Telemedicine is to be defined, supervised, regulated and disciplined by the Commission consistent with existing statutes governing the practice of medicine within the state of Washington. Recognizing that technology changes are developed and become applied to practice with dazzling speed, the intent is to delineate general principles applicable to both existing and future technologies, rather than focusing on specific current technologies.

#### Definitions

**Enabling Technology:** Technology and devices allowing a practitioner to engage in Telemedicine. Usually this is electronic in nature. These technologies may simply transmit audio information and/or images at one end of the spectrum, or at the other end they may enable one to perform complex invasive procedures employing robotics.

**In-person contact:** Interaction between a practitioner and patient in the physical presence of each other as opposed to remote interaction that characterizes Telemedicine.

**Practice of medicine:** For the purposes of this guideline, this is evaluation, diagnosis or treatment of a patient for which the practitioner receives, or would reasonably be expected to receive, [compensation in some form](#). [The practice of medicine occurs at the location of the patient.](#)

**Practitioner:** The word "practitioner" throughout this document means allopathic physicians licensed under Chapter 18.71 RCW and allopathic physician assistants licensed under Chapter 18.71A RCW.

**Practitioner-Patient Relationship:** The relationship between a provider of medical services (practitioner) and a receiver of medical services (patient) based on mutual understanding of their

shared responsibility for the patient's health care. The relationship is clearly established when the practitioner agrees to undertake diagnosis and/or treatment of the patient and the patient agrees that the practitioner will diagnose and/or treat, whether or not there has been or is an in-person encounter between the parties. The parameters of the practitioner-patient relationship for Telemedicine should mirror those that would be expected for similar in-person medical encounters.

**Telemedicine:** The practice of medicine using enabling technology between a practitioner in one location and a patient in another location with or without an intervening practitioner. It is a tool in medical practice, not a separate form of medicine.

## Guideline

**A. Licensure:** A practitioner using Telemedicine to practice medicine on patients in Washington must be licensed to practice medicine in Washington.

1. This includes practitioners who treat or prescribe to Washington patients through online service sites.
2. The licensure exemption in [RCW 18.71.030\(6\)](#) does not apply to Telemedicine practice. [RCW 18.71.030\(6\)](#) exempts from the licensing requirement "The practice of medicine by any practitioner licensed by another state or territory in which he or she resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state." As the legislature created this exemption in 1909, it clearly was not designed to apply to Telemedicine. Our state supreme court has stated that this exemption "merely permits out-of-state physicians temporarily within the state, but without an office or similar professional connections, to practice their calling while in Washington."<sup>1</sup> The Commission interprets this exemption as applying to physicians who are physically in the state and treating patients in-person, but on a temporary basis, such as a physician for a sports team visiting the state. The Commission's interpretation is consistent with the statement by the state supreme court and with the Commission's mission to protect the public. The Commission must have the ability to prevent unqualified physicians from practicing in our state and to take disciplinary action against practitioners who commit unprofessional conduct or are impaired.

**B. Standard of Care:** Practitioners using Telemedicine will be held to the same standard of care as practitioners engaging in more traditional in-person care delivery, including the requirement to meet all technical, clinical, confidentiality and ethical standards required by law. Failure to conform to the standard of care, whether rendered in person or via Telemedicine, may subject the practitioner to potential discipline by the Commission. Some elements of the standard of care as applied to Telemedicine include:

1. **Practitioner-Patient Relationship:** When practicing Telemedicine, a practitioner must establish a practitioner-patient relationship with the patient. The absence of in-person

<sup>1</sup> *State v. Tracy*, 158 Wn2d 683, 147 P.3d 559 (2006).

contact does not eliminate this requirement. Patient completion of a questionnaire does not, by itself, establish a practitioner-patient relationship, and therefore treatment, including prescriptions, based solely on a questionnaire does not constitute an acceptable standard of care.

2. **Informed Consent:** As with medical care involving in-person contact, a practitioner should obtain and document appropriate informed consent for Telemedicine encounters. Because of the unique characteristics of Telemedicine, it is best practice for the informed consent to include:
  - a. Reasonable understanding by all parties of the enabling technologies utilized, their capabilities and limitations, and a mutual agreement that they are appropriate for the circumstances;
  - b. The credentials of the practitioner.
3. **Patient Evaluation:** An appropriate history and evaluation of the patient must precede the rendering of any care, including provision of prescriptions. Not all patient situations will be appropriate for Telemedicine. Since, by definition, Telemedicine does not involve in-person contact between practitioner and patient, if circumstances require in-person contact, an appropriate surrogate examiner acceptable to the Telemedicine practitioner and the patient must be present, with the patient, to provide necessary in-person observations, or the Telemedicine practitioner should advise the patient to be seen by a practitioner in-person. Evaluating the adequacy and significance of any surrogate examination remains the responsibility of the Telemedicine practitioner.
4. **Allowable Treatment Parameters:** The Telemedicine practitioner may provide any treatment deemed appropriate for the patient, including prescriptions, if the evaluation performed is adequate to justify the action taken. The practitioner is responsible for knowing the limitations of the care he or she can provide, no matter how the care is delivered. Just as in a traditional setting, Telemedicine practitioners should recognize situations that are beyond their expertise, their ability, or the limits of available technology to adequately evaluate or manage in the existing circumstances, and refer such patients for appropriate care.
5. **Medical Records:** Practitioners providing Telemedicine services must document the encounter appropriately and completely so that the record clearly, concisely and accurately reflects what occurred during the encounter. Such records should be permanent and easily available to or on behalf of the patient and other practitioners in accordance with patient consent, direction and applicable standards. Practitioners should maintain security and confidentiality of the medical record in compliance with applicable laws and regulations related to the maintenance and transmission of such records.
6. **Prescriptions:** Prescribing medications, whether in person or via Telemedicine, is at the professional discretion of the practitioner. The practitioner, in accordance with current standards of practice, must evaluate the indications, appropriateness, and safety considerations for each Telemedicine prescription. Telemedicine prescriptions entail the same professional accountability as prescriptions incident to an in-person contact. Where

appropriate clinical procedures and considerations are applied and documented, practitioners may exercise their judgment and prescribe medications as part of Telemedicine. Especially careful consideration should apply before prescribing DEA-controlled substances, and compliance with all laws and regulations pertaining to such prescriptions is expected. Measures to assure informed, accurate and error-free prescribing practices (e.g. integration with e-Prescription services) are encouraged.

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