

**Draft Minutes
August 18, 2017
Telehealth Advisory Council
Orlando Health
52 W. Underwood Street
Orlando, FL 32806**

Members Present

Justin M. Senior, Chair
Dr. Celeste Philip
Dr. Ernest Bertha
Dr. Anne Burdick
Leslee Gross
Darren Hay (virtual)
Dr. Kim Landry
Elizabeth Miller
Dr. Steven Selznick
Mike Smith
Matthew Stanton (virtual)
Monica Stynchula
Dr. Sarvam Terkonda

Staff Present

Nikole Helvey
Pam King
Dana Watson

Others Present

Interested Parties (Attachment A)

Call to Order

Chair Senior called the meeting to order at 9:00 a.m.

Roll Call

Chair Senior welcomed the group. After calling roll, Ms. Helvey announced that a quorum was present.

Review and Approval of the Minutes

The Council reviewed the June 2017 meeting minutes as amended, as well as the July 2017 minutes.

Dr. Selznick made the motion to approve both the June and July 2017 minutes. Dr. Bertha seconded the motion, which carried unanimously.

Welcome from Orlando Health

Mr. Jonathan Baker-McBride, Orlando Health, welcomed the Telehealth Advisory Council to the downtown Orlando Health facility and shared a few facts. He reported that Orlando Health has a \$2.8 Billion budget, employing over 2,000 practitioners and 18,000 employees. He told the Council that Orlando Health uses telehealth technology with tele-ICU, tele-stroke, and tele-psychology. He shared that Orlando Health also uses telehealth for tele-monitoring patients. Mr. Baker-McBride spoke about a program called EEZE, which allows a surgeon to communicate with the patient's family throughout the surgery.

Member Discussion - Telehealth Definition

Ms. Helvey presented a draft of the telehealth definition to be included in the report. After reviewing the definition, Dr. Selznick suggested the word “should” in component number six, be changed to “must.” The Council concurred and staff will make the change. There were no other issues with the Telehealth Definition provided in the materials.

Member Discussion – Health Practitioner’s Licensure Issues

Interstate Licensure

The Council reviewed the Interstate Licensure section to be included in the report and shared their suggested edits. Mr. Stanton questioned the use of the word “countries” in the first paragraph. Dr. Bertha concurred and noted that telehealth is to provide greater access to practitioners within the state. Mr. Smith stated that he would like to include global language. Mr. Senior suggested the inclusion of the language “Florida licensed practitioners serving in other states” in the description of who can provide healthcare to Floridians with telehealth technology.

Telehealth Standards for Licensees

The Council members noted that current health care professional licensure requirements do not preclude the ability of Florida licensed practitioners to use telehealth as long as it is within their authorized scope of practice and adheres to established Standards of Care.

The Council also discussed the use of the word “provider” versus “practitioner” throughout the report. After a brief discussion, the Council determined “practitioner” is their preferred word to use in the report.

Mr. Senior suggested substituting the word “recognizes” for “views” in the following: “The Council recognizes Telehealth as a modality for providing health services as opposed to a separate service...”

Member Discussion - Patient and Consumer Protection

Patient Safety

The Council next discussed the Patient and Consumer Protections section of the report. After review, Dr. Selznick commented that the Council needs clarification on the telehealth rules (64B8-9.0141 F.A.C.) from the Florida Board of Medicine (BOM). Currently, the language allows the establishment of a physician-patient relationship through telehealth, so, Dr. Selznick did not think statutory changes were necessary. Ms. Helvey distributed copies of rule 64B8-9.0141 F.A.C. to the Council. They reviewed the rule and made suggested edits. Agency staff will draft a letter to Edward Tellechea, Chief Assistant Attorney General, to request clarification the rule’s ambiguity. The Council members voiced their concern regarding writing prescriptions. The BOM rule does not allow practitioners to prescribe controlled substances via telemedicine, except in the following limited circumstances: treating of psychiatric disorders, treating patients in a licensed health care facility, and treating patients in an emergency medical situation. The Council members suggested using the term “controlled substance” rather than “opioid.” They also suggested watching skilled nursing facility and hospice center patients and critical care patients to observe the prescribing of 72 hours’ worth of controlled substances.

Fraud and Abuse

The Council reviewed the Fraud and Abuse section of the report and discussed the potential for fraud and abuse in telehealth. None of the public speakers or stakeholders reported a problem with fraud and abuse. The Council iterated that the telehealth platforms document and track all encounters, making it difficult to commit fraud. The Council is not aware of a higher instance of fraud with telehealth. Fraud is measured the same regardless of if they are face-to-face or through telehealth.

Break 11:00 am – 11:15 am

Member Discussion – Technology Issues

The Council next reviewed the Technology section of the report. In the preamble to the section, the Council requested, concerning expanding telehealth, both “practitioners and patients” access be included. They suggested reducing the length of the “Connectivity” section to reflect that practitioners should ensure appropriate care connectivity and technology to ensure appropriate delivery of service. The Council also suggested expanding on the details of the “Equipment Costs” section. The Council reiterated the need to educate the practitioners about HIPAA compliance.

Council members made a few observations such as the marketplace helping to drive the patients to use telehealth services when receiving care. Mr. Smith offered to share language relating to medical malpractice in relation to telehealth. The Council agreed that due to constant innovation, technology is a diminishing barrier.

Lunch 12:00 pm – 1:10 pm

Member Discussion – Coverage and Reimbursement

The Council reviewed the Coverage and Reimbursement section of the report. Council members suggested including the inclusion of more 2017 data from the American Telemedicine Association and the Center for Connected Health Policy presentations.

The Council reiterated their desire for the recommendations to include store-and-forward technology as a type of covered telehealth service and gave examples of Florida licensed practitioners in countries with offsetting time zones reading radiology reports.

Coverage Parity

The Council discussed coverage parity as a requirement of health plans to include benefits for services provided via telehealth, when possible and appropriate, to the same extent the plan already covers the same services if provided in-person. However, they are silent regarding the amount of payment for those services. Coverage parity does not require health plans to provide any new service lines or specialties, and is intended to ensure that patients have options for how they may be seen by health care providers, including in-person or virtually. The Council recommended that Florida’s legislature require Florida-licensed health insurance plans to require coverage for health care services provided via telehealth.

Reimbursement Parity

The Council next discussed a reimbursement parity requirement of health plans to pay providers for covered telehealth services at an equivalent rate as the in-person reimbursement for the same service. Mr. Senior noted that commercial insurance companies and health plans are not required

to pay for a fee-for-service model. They are also not required to cover telephone calls. Health plans contract with practitioners to determine payment specifications. The Council members suggest requiring the use of GT Modifiers when billing.

The Council discussed allied healthcare providers' mental health treatment model using Licensed Behavioral Health Counselors and Licensed Social Workers to provide treatment/therapies using telehealth. They briefly discussed Medicare and its impediments to using telehealth. The Council also discussed Medicaid and its broad coverage of telehealth. They agreed that the Medicaid section of the report should provide a detailed description of Medicaid's broad telehealth coverage.

The Council recommended the Florida Legislature require equivalent health plan reimbursement for covered health care services provided to members whether in-person or using telehealth. The intention is not to interfere with individual negotiations between private insurance and practitioners. The state policymakers must also consider whether forced payment parity stifles individual providers' ability to promote their telehealth programs to payers and other stakeholders separately from their in-person services.

Value Based Programs

The Council next discussed the use of telehealth in federal value-based programs. The U.S. Center for Medicare and Medicaid Services (CMS) has launched a variety of value-based programs over recent years designed to reward providers for more favorable outcomes and restrict reimbursement for services resulting in less favorable outcomes and/or higher costs. Members noted an increasing number of private and commercial health plans have adopted similar strategies to contain costs and improve care outcomes among their provider networks.

U.S. Center for Medicare and Medicaid Services (CMS)

The Council briefly discussed the many caveats in the Medicare rules and their influence on how states serve vulnerable populations, including patients who are dually eligible under both the Medicare and Medicaid programs. Florida's Medicaid program allows the use of telehealth, but the services are limited to live video conferencing, and only pays the practitioner that provides the diagnosis. The Council recommended the Agency consider modifications to the Medicaid telehealth fee-for-service rule to include coverage of store and forward and remote patient monitoring modalities in addition to live video conferencing. The Council also recommends the Agency work with the Medicaid Managed Care plans, Health plans, and the Children's Health Insurance Program (CHIP) to promote the expansion of telehealth utilization statewide.

Network Adequacy

Insurance network adequacy was the last topic covered regarding parity. The Council discussed the National Association of Insurance Commissioners (NAIC) definition of network adequacy as "a health plan's ability to deliver the benefits promised by providing reasonable access to a sufficient number of in-network primary care and specialty physicians, as well as all health care services included under the terms of the contract." The Council supports the NAIC provisions related to telehealth as a means to ensure network adequacy among health plans, Medicaid and CHIP plans.

Member General Discussion

The Council discussed the need to draft legislation to change the policies in Florida regarding telehealth. During the Patient Safety section of the meeting, members referred to the Board of Medicine's Telehealth rule 64B8-9.0141, F.A.C. The Council reviewed and discussed the

ambiguity in the rule as to who can use telehealth. The Council members discussed possible amendments to the rule. Dr. Terkonda advised that the Board of Medicine intentionally left the rule as broad as possible to allow providers flexibility. Mr. Senior reminded the Council that laws come in the form of statutes, written by the Legislature. The laws provide the agencies with rulemaking authority on a specific topic, and the authorized agency writes the draft rule, which goes through many meetings and procedures to become an actual rule.

Break 2:10 pm – 2:30 pm

Public Comments

Ms. Anelia Barowski with Pediatric in Brevard spoke to the Council about “state vs. country” lines in regards to telehealth. She stated that the consumers would not understand. She stated that she agreed that all practitioners be Florida licensed. She described Mayo Clinic’s telehealth experience. Mayo allows its Florida practitioners to treat their patient regardless of where the patient is located, as long as the patient has previously received treatment for the issue. If the patient has a new issue, they are required to have a face-to-face visit or see a practitioner in the state they are currently located.

Dr. Terkonda stated that telehealth services should include documentation in their notes including the practitioner location, identity of the chaperone (if present), and the patient’s location.

Ms. Barowski stated that practitioners should not need to have a separate medical malpractice insurance policy to provide telehealth services. Practitioners must be Florida licensed and Florida should carefully join a state compact, so long as it does not water down Florida requirements.

Ms. Anna Baznick with IMPOWER thanked the Council and complemented the writing in the draft report. She stated that the recommendation needed to include the appropriate verbiage and cautioned the Council to look for any unintended consequences of their recommendations. She recommended that the report include specifics regarding the practitioners working within their scope of practice and meeting the applicable standard of care.

Next Steps

Agency staff will make amendments throughout, and re-draft the sections of the report as directed by the council for review and comments prior to the next meeting. The next Telehealth Advisory Council meeting is Tuesday, September 19, 2017 from 9 am – 4:00 pm in Tallahassee Florida at the Agency for Health Care Administration.

Adjournment

There being no further discussion, the Telehealth Advisory Council adjourned at 3:10 p.m.

Attachment A

Interested Parties in attendance at the August 18, 2017 Telehealth Advisory Council Meeting

Anna Baznik, IMPOWER; Aniela Borowski, Pediatrics in Brevard; Melanie Brown, JB; Christine Certain, Children's Home Society of Florida; Owen Cook, Bay Care; TRichard Curley, SMA Behavioral Health; Jaime Dyson, Orlando Health, Florida Physical Therapy Association; Carolyn Grant, Cardinal Health; Joni Higgins, Bay Care; Aneel Irfan, Trapollo; Jonathan Becker-McBride, Orlando Health; Lindsay Newton, Devereux Carey Officer, Nemours; Eric Prutsman, Orlando Health; Victor Rosenbaum, Orlando Health; Martha Santori; Isabel Veliquez, IMPOWER; and Angela Zeringue, Trapollo.