Enhancing Your Virtual Presence and Communication Techniques to Reduce Telemedicine Liability

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Objectives

At the end of this program participants should be able to:

- Discuss preparation to operate technology-based systems for conducting routine care and exchanging information.

- Define key interpersonal skills for telehealth care delivery such as communication and therapeutic relationships that can influence clinical outcomes.

- Share examples of how clinicians can adapt to the communication process via telemedicine, provide clinician congeniality in communications, and strive to achieve a positive telepresence during patient encounters.

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Telemedicine:
Dipping a Toe to Jumping in the Deep End

- Health Affairs published a recent study January – June 2020

- 16.7 million commercial and Medicare Advantage insured

- Pre COVID-19 <2% clinicians using telemedicine
  - Exception: Psychiatry

- During COVID-19 use increased in specialties examined
  - 30.1% of all outpatient visits conducted were telemedicine

- JAMA Network Open published a similar study for Primary Care

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Telemedicine Specialty Providers

Provider Specialty	Pre-COVID-19	COVID-19
Endocrinologist	<2%	67.7%
Gastroenterologist	<2%	57%
Neurologist	<2%	56.3%
Pain Management	<2%	50.6%
Psychiatrist	5.5%	50.2%
Cardiologist	<2%	50%
*Primary Care	<2%	35.3%
Orthopedic Surgeons	<2%	20.7%
Ophthalmologists	<2%	9.3%
Physical Therapists	<2%	6.6%
Psychologists	<2%	4.4%
Mental Health Social Workers	<2%	4.2%
Optometrists	<2%	3.3%

Telemedicine Patient Users

Total Visits Delivered via Telemedicine

Years	Pre-COVID-19	COVID-19
0-19	.06%	35.1%
20-29	1.7%	38.6%
30-39	2.3%	38.7%
40-49	1.6%	34.7%
50-59	0.9%	30.2%
60-64	0.5%	28.4%
65+	0.1%	23.7%

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KAMMCO Telemedicine Providers

- 2,000 Surveys sent 11-2020
- Voluntary return for those utilizing telemedicine
- 301 Surveys received 12-31-2020
- 301 Providers using or planning to use telemedicine
- Conversations around coverage, education and licensing
  - Half of KAMMCO insured providers using telemedicine

Kansas State Board of Healing Arts Statistics

- Telemedicine waivers provided for out of state licensees

- Professionals from professions KSBOHA regulates

- As of March 17, 2021

- 579 Individual waivers

- Over 6,000 waivers for large out of state entities
  - Telemedicine Company
  - Cancer Center

- Expires March 31, 2021

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Kansas
Board of Healing Arts

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A Lasting Modality to Medical Practice

- Moving forward- when pandemic rules no longer apply
- Executive Orders and Waivers – temporary (subjective time frame)
- State
  - Board of Healing Arts
  - Licensing
    - Location of provider
    - Location of patient
- Federal
  - CMS
    - Location of patient
    - Communication method
  - HIPAA
    - Compliant platforms
  - DEA
    - Prescribing requirements

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Technology-based systems for conducting routine care and exchanging information

"Implementing telemedicine isn't easy. To do it well, a physician practice must buy appropriate technology and train staff and patients how to use it. It takes time to help an 80 year old who is unfamiliar with technology do a video visit. New workflows must be introduced. Clinical schedules need to be changed. Documentation protocols must be updated."

ATEEV MEHROTRA, DAVID LINETSKY, HILARY HATCH
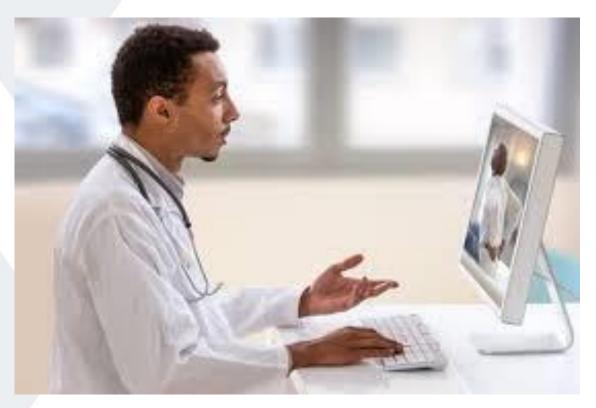
STAT NEWS JUNE 25, 2020

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Telemedicine is an Evolving Practice

Remote Patient Monitoring

TeleRadiology

Electronic Health Record

Inpatient/Emergency Room Telemedicine

Health Information Exchanges

Patient Portals

Outpatient/Physician Practice Virtual Visits

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Policies, Procedures, Criteria and Boundaries

- Licensure
- Patient – Provider relationship
- Patient or condition selection
- Consent to treat via telemedicine
- Physical environment
- Privacy and security protection
- Documentation
- Terminating a telemedicine visit
- Training

www.medicaleconomics.com

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COVID-19 and the Telemedicine Explosion

- The OCR relaxed not removed HIPAA Enforcement Discretion
- Non –Public facing communication platforms

Video Communication	Text Based Communication
• Facebook Messenger Video	• WhatsApp
• Google hangouts video	• Jabber
• WhatsApp video chat	• Facebook Messenger
• Apple FaceTime	• Google Hangouts
	• Signal

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Telemedicine Platform Changes

- The Enforcement Discretion will return
- New platforms for some
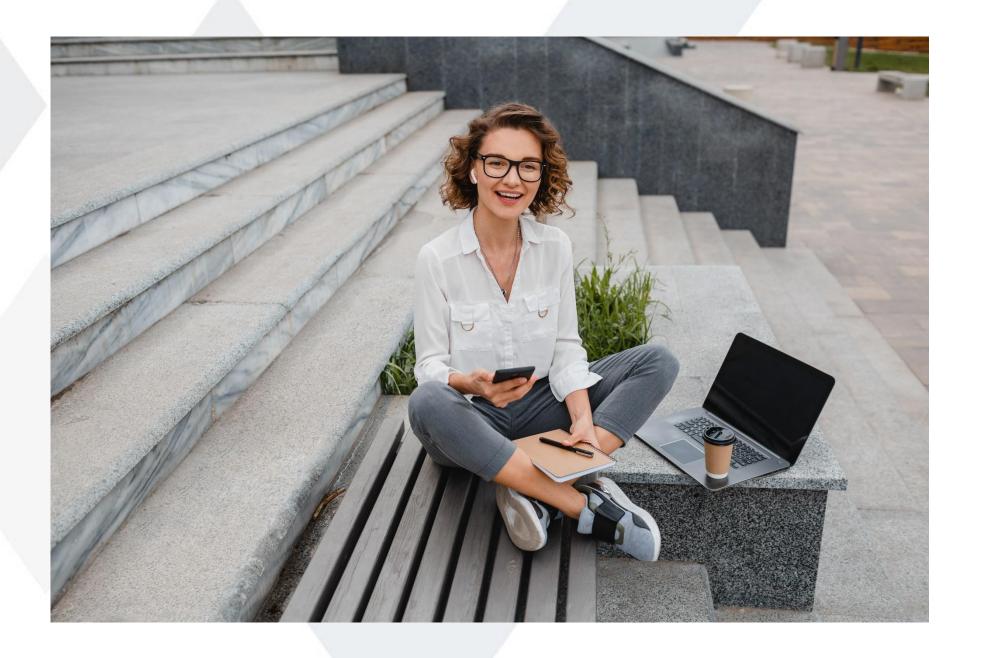- HIPAA compliant with Business Associate Agreements

Updox · U

VSee · V

Skype for Business / Microsoft Teams · S

Zoom for Healthcare

Spruce Health Care Messenger

Doxy.me

GoToMeeting

Google G Suite Hangouts Meet

Amazon Chime

Cisco Webex Meetings / Webex Teams

cms.gov/telehealth-toolkit-providers.pdf

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Improved Presence Improves Communication

Benefitspro.com

Provider Preparation

- Be prepared for the telemedicine visit
- Equipment – understand how to use and test; know who to contact to troubleshoot; ensure good placement of camera, microphone and speakers
  - Camera – mid chest and full face
- Physical space – clear of distractions; good lighting; private and secure (HIPAA)
- Provider appearance – professional; solid, non-distracting colors
  - Wear what you would to the office
  - Name tag/official identification
- Review patient history chart or file
  - Schedule enough time for visit
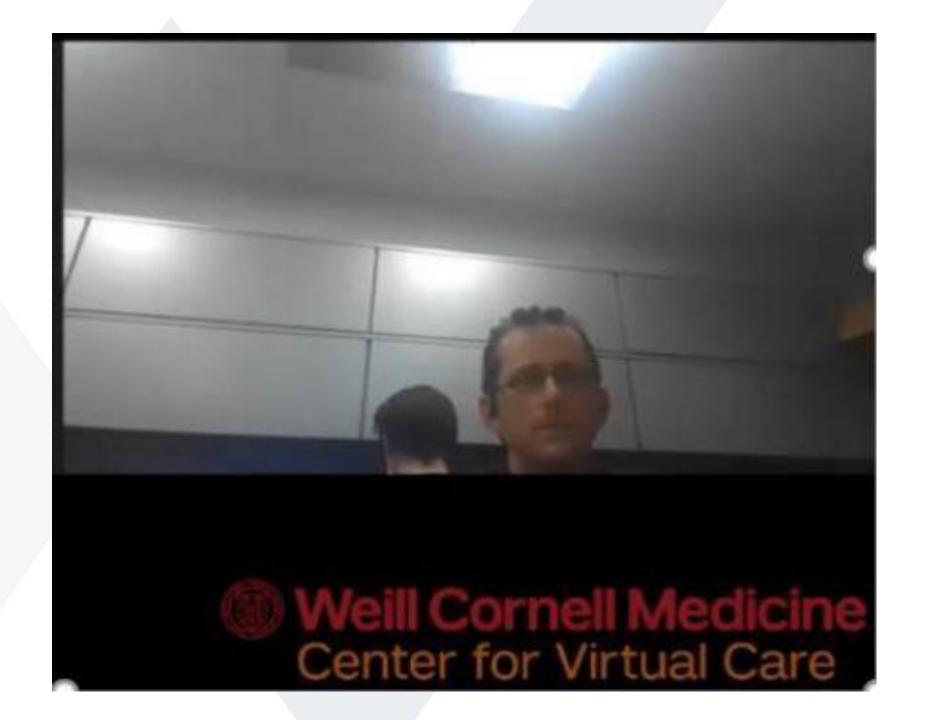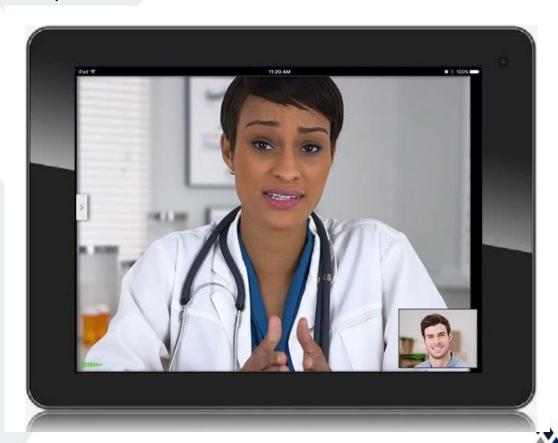 - Start each visit on time

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Weill Cornell Medicine
Center for Virtual Care

The communication process via telemedicine; clinician congeniality, communications and positive telepresence

Communication Modification

- Moving between physical presence and virtual presence
- Maintaining Standard of Care
- Do you have good "Webside manner"?
- Body language verses facial queues
- Creating a connection with the patient
  - I am professional
  - You are important
  - I am listening
  - I have empathy
- Introduce yourself
- State if someone else is with you
  - Nurse
  - Scribe
- Be prepared to coach

Vsee.org

Key Elements in Good Virtual Communication

- Eye contact
  - Look at the camera
  - See the patient
- Speech
  - Slow speech slightly
  - Speak clearly – try not to use contractions
  - Know your patient's medical IQ
- Patience
  - Allow patient/family to speak
  - Allow patient/family to ask follow up questions
  - Sit still
- Empathy
  - Verbalize it
  - Facial emotion
- Verbalize what you are doing
  - Documenting
  - Reviewing the medical record

Healthgrades.com

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Can You Hear Me Now? Connections are Essential

- Telephone
  - Obvious limitations of evaluation or treatment session
  - Possible payment issue
- Cellphone
  - Disparity among devices
  - Cell signal in rural areas and buildings
- Computer/laptop/mobile device
  - 96% Americans have mobile device
  - Not just a bandwidth issue
  - Watching video verses creating real time video
  - Disparity in tech abilities

Medscape.com

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Telemedicine Visit Patient Education

- Prior to the appointment request the patient:
  - Choose their device
  - Set device up prior to the telemedicine appointment
  - Ensure reliable cellular or internet connection or landline
  - Identify a private, quite, well lit place for the telemedicine appointment
  - Prepare medical history and have current medication list
  - Complete any required paperwork
  - Write down reason for appointment and questions
  - Obtain vital signs if requested

- During the appointment the patient should:
  - Review the treatment plan with the provider, ask questions about the plan
  - Set up follow up appointment as necessary

Patient Identification, Location and Consent

- Patient identification
  - Name
  - Date of Birth
- Patient location
  - Geographical location
  - Private location
  - Good lighting
- Patient Consent
  - Specific to telemedicine visits
- Patient commitment to visit
- Document Document Document

www.webmd.com

Evaluation without Auscultation or Palpation

- Criteria for Telemedicine visits
    - Avoid multiple complex conditions
    - When a physical exam would change recommendation/treatment
- In person evaluation –judgment/decisions on body language queues
- Telemedicine evaluation – open ended questions, detailed questions, more detailed questions
    - Show and tell
- No or limited tools
    - Using over the counter devices
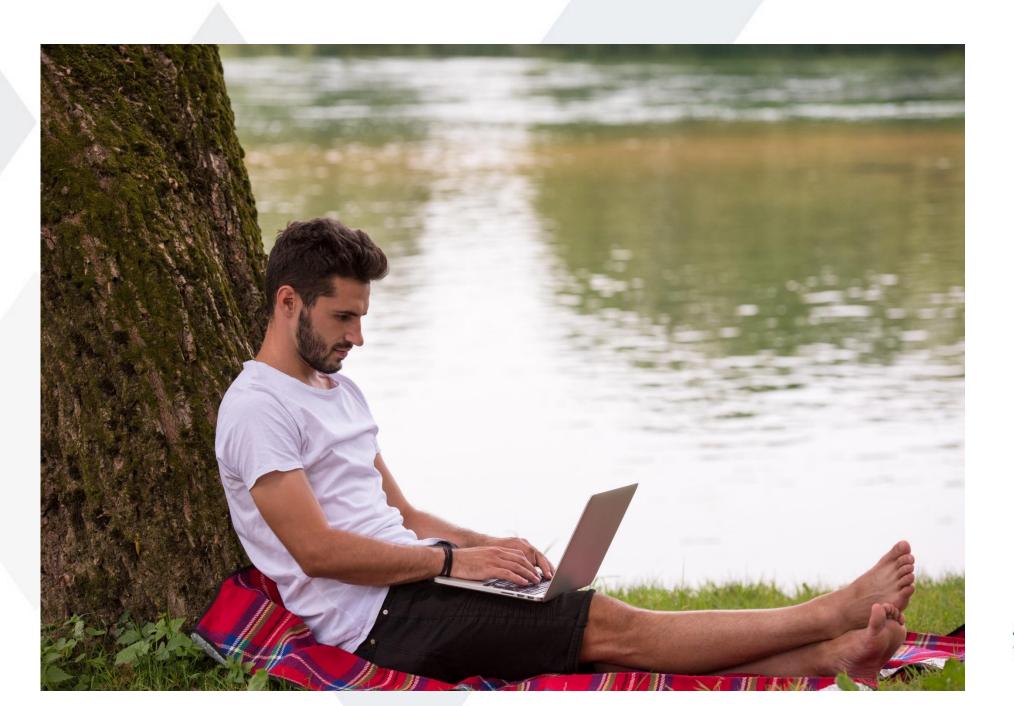   - Personal smart tools

Risk Management Recommendations

- Make sure license is active for location of patient

- Have policies and procedures to define the practice of telemedicine

- Set criteria for types of telemedicine visits and/or patient conditions

- Make sure patients are educated on the telemedicine visit process

- Be prepared for the telemedicine visit

- Get patient informed consent to conduct a telemedicine visit

- Ensure environment is appropriate for both provider and patient

- Ensure privacy is protected with provider and address with patient

- Document all telemedicine encounters in the medical record thoroughly

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Telemedicine Provider Resources

- Kansas Board of Healing Arts Telemedicine Policy
  - www.ksbha.org/documents/publications/21-02_Telemedicine.pdf
- Kansas Board of Healing Arts Education and Outreach Page
  - www.ksbha.org/education.shtml
- AMA Telemedicine Playbook
  - www.ama-assn.org/system/files/2020-04/ama-telehealth-playbook.pdf
- CMS Coverage to Care (C2C) Telehealth Resources
  - www.cms.gov/About-CMS/Agency-Information/OMH/equity-initiatives/c2c/consumer-resources/telehealth-resources
- HHS/OCR Notification of Enforcement Discretion for Telehealth Remote Communications
  - https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html
- MGMA Best practices for primary care telehealth during COVID-19
  - https://www.mgma.com/resources/operations-management/best-practices-for-primary-care-telehealth-during

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Questions

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