

EXECUTIVE SUMMARY

As our country moves into the 21st century advanced telecommunications technology is facilitating the exchange of diagnostic, therapeutic and educational information between health care practitioners and between patients and practitioners. The health care market is now demanding easy access, rapid results and universal services – all of which can be accomplished with telehealth technology. Telehealth does not create new or different health care services, but rather, it provides a new way of delivering existing services. As with traditional health care delivery, there is a potential for harm and abuse in the provision of health information and medical treatment via telehealth.

In 1999, the Florida Legislature acknowledged the importance of these issues by establishing a Task Force on Telehealth within the Department of Health. The legislation posed a variety of pertinent questions, which were discussed during meetings of the Task Force in locations around the state between August and December, 1999. All meetings were open to the public and included specific time for public testimony. In addition, national experts in medicine, nursing, pharmacy and telehealth presented the national perspective regarding telehealth to the Task Force. Final recommendations from this Task Force are as follows:

Legal:

- Individual practice statutes and rules should be reviewed by the regulating agencies to determine if revisions are necessary to properly regulate without unduly restricting telehealth.
- The definition of a patient/practitioner relationship should be expanded to specifically include the establishment of a patient/practitioner relationship via telehealth technology.
- When an out-of-state practitioner does business in Florida via telehealth technology, the practitioner should be held to Florida's health care standards.
- Jurisdiction for all legal actions should be established based upon the patient's location at the time the health care service is provided.
- Any medical records generated, including records maintained via video, audio, etc., due to a telehealth encounter, must conform to the confidentiality and record-keeping guidelines of the Federal government, the State of Florida, and nationally recognized health care accreditation organizations. A medical record must be kept by each practitioner involved in the telehealth contact. The telehealth practitioner must provide copies of these electronic records in the same manner as paper, radiographic, and photographic records, as required by law.

- The standard of care should be equivalent for face-to-face encounters and telehealth encounters.
- Practitioners should request a face-to-face encounter with the patient if they do not feel that they are being presented with adequate visual or sound quality to form an opinion. This should be part of the minimum acceptable standard of care.
- In considering new laws to protect health care consumers in the area of telehealth, the Legislature should consider the important role competition plays in the containment of health care costs, the quality of the services and products that are available, and the benefits that flow from having a variety of providers and products from which to choose.

Licensure:

- Persons wishing to provide health care to patients located in Florida must apply to the appropriate Florida licensing board (or department when there is no board) for a Florida telehealth license or a full license.
- The requirements for telehealth practice and licensure should be identical to those requirements for full licensure in Florida, including the critical requirements such as practitioner profiling, practitioner credentialing, and financial responsibility. However, the appropriate board, or department when there is no board, should be able to grant waivers or variances, notwithstanding any other provision, of non-critical requirements such as continuing education requirements. Appropriate statutes should be revised to reflect this board authority.
- Telehealth licensees must comply with all Florida laws, rules and disciplinary guidelines regulating the practice of that profession.
- A statement should be required on all advertisements, Internet web sites, and any other offer to provide health care services to the people of Florida which clearly lists the practitioner's Florida license number and states that only Florida licensed health care practitioners may provide health care services to persons located in Florida. The statement should also reference the Department of Health's Internet address and/or toll-free telephone number.
- The provision of telehealth services to patients in Florida by practitioners without a license should be prosecuted as unlicensed practice.
- Persons properly licensed in another jurisdiction should be able to provide consultative services to a Florida licensee without being licensed in Florida so long as the out-of-state practitioner does not exercise primary authority for the health care of the Florida patient and all communications by the out-of-state practitioner are made to the Florida licensee and not directly to the patient.

- Chapter 455, F.S., should be revised to adopt the definition of consultation presently included in Chapter 458, F.S.
- A health care practitioner is required to comply with the Patient's Bill of Rights, Section 381.026, F.S., in all telehealth patient encounters.
- Each act, statute and regulation being revised should include a clear justification for any restriction on interstate commerce for telehealth activities.

Technology:

- The Florida Legislature should pass legislation that would make available the State's communication network (voice, video, data, and imaging) to entities within the State that are providing telehealth, e-learning, and public safety services. The Legislature should also make available the State's commodity and services contracts to these entities.
- The Florida Public Service Commission should consider actions to:
 - reduce rates for telehealth, e-learning (where not already addressed), and public safety services, and
 - provide financial incentives for non-traditional bandwidth service providers (e.g. xDSL, cable modems, dark fiber) for telehealth, e-learning, and public safety initiatives.
- The Telehealth Task Force, the Florida Information Service Technology Development Task Force, and the Florida Distance Learning Network Advisory Council should initiate joint action to address Internet security and confidentiality and other issues at the patient/client level.
- The Telehealth Task Force should continue to function and work with the Information Service Technology Development Task Force to design, distribute and compile responses to a survey that would accurately assess statewide inventory of related telecommunication assets and infrastructure. In addition, the Telehealth Task Force should continue to function to design, distribute, and compile the responses to another survey that will assess the current and planned telehealth applications within the State of Florida.
- The State's public safety networks, such as 800 MHz Statewide System and 911, should be explored for potential use for emergency medicine and other telehealth applications.
- The Telehealth Task Force should identify feasible and economical wireless technologies for use in the telehealth industry.

Access:

- The public should be informed and educated regarding the potential for the use and misuse of telehealth, including the applicability of Florida law in the area of telehealth. This public education should be the responsibility of both professional health care organizations and state agencies responsible for monitoring health care.
- The Department of Health should have lead responsibility for maintaining updated information and tracking implementation of outcomes of telehealth initiatives. The Department should be allocated sufficient additional funding to comply with this responsibility.
- Once telehealth consultations are included as covered reimbursable services, an annual "State of Telehealth" evaluation should be conducted by the Department of Health to monitor the use of telehealth services and a report submitted to the Legislature. Clinical outcome, fiscal efficiencies and access to care issues should be included in the report as key evaluation parameters.
- Licensed health care providers disseminating health information over the Internet to the citizens of Florida, or who have entered into a contract or legally binding agreement with a State of Florida Agency to distribute health care information over the Internet, an intranet, or an extranet, should be required to comply with the intent of the Americans with Disabilities Act (ADA). Web design accessibility standards promulgated by the World Wide Web Consortium and supported by the U.S. General Services Administration Center for Information Technology Accommodation and Florida Department of Management Services Web Design Standards should be utilized.
- Licensed health care providers who disseminate interactive health communications (IHC) over the Internet or by other electronic means (such as computer-assisted telephone advice systems) to: relay information; enable informed decision making; promote healthful behaviors; promote peer information exchange and emotional support; promote self-care; and manage the demand for health services to the citizens of Florida, should incorporate documentation showing the evaluative methodology they used to access the safety, quality, and utility of these resources for the intended users.

Reimbursement:

- The Legislature should appropriate funds for telehealth consultations between health care practitioners. The reimbursement should be at the same level as traditional face-to-face consultations.

- Coverage should include current consultation services for which the Medicaid program provides reimbursement. As the interactive telecommunication concept is incorporated into the health care delivery system and future services become covered, reimbursement of additional services delivered by telehealth technology should be considered for inclusion.
- Both live interactive and store and forward technology should be reimbursed.
- The Medicare defined telehealth consultation modifier, GT, should be recognized and adopted by telehealth providers in Florida to indicate a telehealth service on billing documents.
- Any health care practitioner currently certified for reimbursement for face-to-face encounters should be certified to receive the same reimbursement for providing telehealth services, both for live interactive and store and forward modalities.
- Any health care practitioner who is licensed or otherwise authorized by law, and is acting on instructions from the referring or consulting physician or practitioner, should be eligible under reimbursement policies to present the patient to the consulting physician or practitioner for the provision of care and/or services.
- Telehome care should be reimbursed when provided by a licensed, or otherwise authorized by law, health care practitioner.
- Private insurance companies, including Worker's Compensation, should be encouraged to reimburse for live interactive and store and forward telehealth consultations following Medicare and Medicaid's lead.

Ongoing issues:

- The State of Florida should participate in regional and national initiatives addressing telehealth technology and programs, including the Southern Governors' Task Force on Medical Technology.
- The Task Force endorses the recommendations of the Legislative Committee on Intergovernmental Relations' Interim Project: "Development of a State Rural Policy, Florida Rural Heritage Project", November 1999.
- The Task Force on Telehealth, or a similar group, should continue to review available reports on telehealth and identify and review other available data of importance to the telehealth industry.

- The Task Force on Telehealth is a potential resource, along with the Information Service Technology Development Task Force, for making recommendations regarding state rural health policy. Both task forces should work with the Legislative Committee on Intergovernmental Relations as indicated in the Interim Project: "Development of a State Rural Policy".
- Further research should be conducted to explore international telehealth developments that might impact on Florida.
- Further research should be conducted to investigate developments in the fields of evidence-based health care and networked knowledge management systems to assess their impact on technology applications and service delivery in the state.
- Close monitoring is needed of the development and promulgation of health information electronic data interchange standards being proposed by a mix of governmental, private, and international standards setting bodies (such as WEDI, ANSI, ISO, etc.). Such standards will have a profound effect on state, national, and international electronic health care commerce.
- The Department of Health and the Agency for Health Care Administration should research and define electronic health ethics for licensure and regulatory policy and standards for licensed health care providers (both practitioners and organizations) in consultation and partnership with the Internet Health Care Coalition's national "e-Health Ethics Initiative."