TELEMEDICINE: A PATIENT SAFETY PERSPECTIVE

J. Craig Strafford, MD, MPH
Secretary, State Medical Board of Ohio

TELEMEDICINE IN OHIO

- 1999 Rule 4731-11-09 developed to promote legitimate physician/patient relationship when prescribing.
- 2001 definition of “practice of medicine” amended to include: use of any kind of communication, including oral, written, or electronic.
- 2001 telemedicine certificate created for physicians located outside-the-state who provide care to patients in Ohio.
- 2010 Rule 4731-11-09 amended to recognize “tele-psychiatry”.

MEDICAL BOARD OVERVIEW

Medical Board: 12 Board members (9 Physicians, 3 Consumers)

Mission: To protect and enhance the health and safety of the public through effective medical regulation

Regulated Professions: MD, DO, DFPM, Physician Assistants, Radiologist Assistants, Anesthesiologist Assistants, Cosmetic Therapists, Massage Therapists, and Acupuncturists

By the Numbers: 64,000 licenses; 4,894 complaints and 217 disciplinary actions in 2011.
Developed to promote legitimate physician–patient relationship when prescribing.

Established requirement to personally physically examine and diagnose patient prior to initial prescribing with certain exceptions.

Maintains higher standard for prescribing of controlled substances as a result of additional risk factors (abuse, addiction, diversion, polypharmacy).

Prohibits physician participation in offer to provide drugs to persons not personally physically examined and diagnosed.

**RULE 4731-11-09**

**VIGNETTE #1**

- Physician is a consultant for an internet-based company and issues 239 prescriptions in five month period
- Physician did not personally physically examine patients, did not order blood work or other tests, and did not advise patients of potential side effects of medication
- Physician relied upon patient questionnaires, did not verify information, and was unavailable to consult personally or via telephone with patients
- Physician states he would have practiced to a different standard if patients presented in office setting and that “in an internet practice you can’t be quite as thorough since you’re not in a position to provide hands-on physical”

**PATIENT SAFETY ISSUES**

- Physician/Patient Relationship
  - Examination and diagnosis
  - Episodic and/or continuation of ongoing care
  - Availability for follow-up care
- Patient transfer and referral
  - Knowledge of available resources
  - Provider relationships
  - Medical record ownership
- Communication
  - Availability to consult with other providers
  - Availability of medical record
VIGNETTE # 2

- Physician is licensed in both Ohio and another state
- While located in other state physician is prescribing lifestyle drugs over the internet to Ohio patients that he had never personally physically examined
- Other state is notified of violations and Ohio’s intent to investigate
- Other state does not want to be involved in case or receive report of investigation

PUBLIC SAFETY ISSUES

- Who has jurisdiction?
  - State of physician’s residence?
  - State of “patient’s” residence?
  - Both?
- Who has the evidence?
  - Available to state with jurisdiction?
  - Can state holding evidence share?
- Incentive to act
  - Will physician’s state protect non-residents?
  - Will “victim” state pursue doctors in other states?

MOVING FORWARD

- Location of patient determines where care was provided
- Recognize that “telemedicine” is the practice of medicine
- Maintain standard to personally physically examine the patient prior to initially prescribing controlled substances
- Ensure appropriate examination consistent with the disease or condition being treated within the minimal standards of care
- Informed consent advising new patients of potential disruption of care episode
- Position Statement on Telemedicine
- 4731-11-09, Ohio Administrative Code
- 4731.296, Ohio Revised Code
- 4731.34, Ohio Revised Code
- 4731.36, Ohio Revised Code

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