

TELEMEDICINE:



A PATIENT SAFETY PERSPECTIVE

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DEFINING TELEMEDICINE

The “practice of telemedicine” is defined in Ohio as the practice of medicine in this state through the use of any communication, including oral, written or electronic communication, by a physician located outside this state.

(Section 4731.296 (A), Ohio Revised Code)

IN-STATE PHYSICIANS

In-state doctors who are licensed in Ohio do not need a telemedicine certificate.

They may examine and diagnose patients through the use of any communication, including oral, written, or electronic.

TELEMEDICINE TIMELINE

1999

- Rule 4731-11-09 *Prescribing to Persons Not Seen by Physician* 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*

TELEMEDICINE TIMELINE

2001

- Telemedicine certificate created for out-of-state physicians who provide care to patients in Ohio

2010

- Rule 4731-11-09 amended to recognize “tele-psychiatry” and set standards for this type of practice

TELEMEDICINE TIMELINE

2012

- Medical Board issued Position Statement on Telemedicine

2012

- Medical Board issued Interpretive Guideline on Rule 4731-11-09 based on advances in technology

TELEMEDICINE TIMELINE

2014

- Rule 4731-11-09 updated to incorporate information from the Interpretive Guideline

RULE 4731-11-09 REVISIONS

- Established requirement to *personally* physically examine and diagnose patient prior to initial prescribing with certain exceptions.
- Incorporates expanded definition from the Interpretive Guideline to allow for situations where a physician can remotely examine a patient.
- Maintains higher standard for prescribing of controlled substances as a result of additional risk factors (abuse, addiction, diversion, polypharmacy).

VIGNETTE #1



Physician is a consultant for an internet-based company and issues 239 prescriptions in 5 months

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?

TELEMEDICINE RESOURCES

Rule 4731-11-09, Ohio Administrative Code, Prescribing to persons not seen by physician

Medical Board Position Statement on Telemedicine

Medical Board Interpretive Guideline regarding Rule 4731-11-09, based on certain technological advances

Section 4731.296, Ohio Revised Code, Telemedicine Certificates

Section 4731.34, Ohio Revised Code, Practice of Medicine

Section 4731.36, Ohio Revised Code, Exceptions

Federation of State Medical Boards Model Policy for the Appropriate Use of Telemedicine Technologies in the Practice of Medicine