

Proposed Statutes And Department Of Health Guidelines For The Practice Of Telemedicine In Rhode Island

By:



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Telemedicine, the use of electronic information and telecommunication technologies to support long-distance clinical health care, is becoming more common as states adopt laws and regulations allowing its practice within their jurisdictions. Rhode Island too recognizes the potential benefits of telemedicine and is in the process of introducing laws and guidelines for its practice.

Currently, Rhode Island statutes prevent physicians who are not licensed in Rhode Island from practicing medicine in Rhode Island. Although there are some limited exceptions to these statutes, these exceptions do not currently include the practice of telemedicine. In addition, criminal sanctions are applicable if these rules are violated.

Despite these restrictions, the Rhode Island Department of Health (“DOH”) recognizes that telemedicine has a place in the practice of medicine and is seeking amendments to current statutes to allow the practice of telemedicine in Rhode Island. To this end the DOH has been instrumental in the introduction of Rhode Island Senate Bill S. 0753 (2013), which would amend current statutes to allow the practice of telemedicine in Rhode Island. The DOH has recently promulgated proposed guidelines for the appropriate use of telemedicine in Rhode Island.

Pending Rhode Island Senate Bill

[Senate Bill S. 0753](#)¹ contains amendments to R.I. Gen. Laws 1956 § 5-37-14 which include exceptions to the present physician license requirements. Specifically, the bill will allow a physician, who is licensed to practice medicine in

¹ It is important to note that this bill has not passed and is subject to amendment, supplementation and/or defeat during the legislative process.

another state, but not in Rhode Island, to practice medicine in Rhode Island under certain circumstances, including when a treating physician, whether or not physically in Rhode Island, is consulted by a Rhode Island physician on a singular case, or is providing teaching assistance to a Rhode Island physician. In these cases, the out-of-state physician may practice in Rhode Island in person, or via telecommunication for a period not to exceed (7) days. During such a consultation, however, the patient must be in the physical presence of a Rhode Island physician. An exception to this requirement may apply when an out-of-state physician has an ongoing relationship with a patient and is providing consultation to the patient via telephonic, internet or other form of communication, as long as doing so meets the minimum standards of practice in the physician's specialty. The bill would allow an extension of the (7) day limitation to (30) days if the Rhode Island physician who is seeking the consultation with the out-of-state physician requests permission from the director of the DOH and is able to show good cause.

Any out-of-state physician wishing to practice in Rhode Island in this manner will be required, under this bill, to inform the DOH of his or her intent to practice prior to such practice, or as soon as practicable, but not later than (7) days after such practice occurs. Additionally, the Rhode Island physician consulting with the out-of-state physician assumes responsibility for ensuring that the out-of-state physician adheres to the minimum standards of medical care in Rhode Island and shall acknowledge this in writing. This provision, while ensuring oversight by a Rhode Island physician, may also serve to discourage some in-state physicians from utilizing telemedicine consultations for fear of exposure to liability for the actions of out-of-state physicians.

DOH Proposed Guidelines

The DOH proposed “Guidelines for the Appropriate Use of Telemedicine and the Internet in Medical Practice” (“Guidelines”) was recently promulgated and is currently open for public comment and revision.² In doing so, the DOH recognizes that telemedicine has great potential to supplement and enhance, but not replace, interpersonal interactions between physicians and patients. Presently, the Guidelines indicate that telemedicine practitioners must maintain appropriate licensure, including a Rhode Island license if the patient is in Rhode Island.

One of the major focuses of the Guidelines is ensuring that the obligations, responsibilities and rights that are created in a physician-patient relationship are preserved and honored even when the physician and patient never meet face-to-face. To this end, the Guidelines state that such a physician-patient relationship is established when a physician agrees to undertake diagnosis and treatment of a patient and the patient agrees, whether or not there has been a face-to-face encounter between the physician and the patient. The Guidelines also explain that the same professional and ethical standards presently applicable to physicians should also apply to physicians engaging in telemedicine including similar standards of candor, privacy, integrity, accountability and informed consent.

The Guidelines stress that physicians must always be aware that physical evaluations done via telemedicine are inherently different from face-to-face evalu-

² Similar to the pending Senate bill discussed in this article, these Guidelines are merely proposed guidelines and are subject to change and supplementation and may, or may not, be officially promulgated by the DOH in the future. In addition, this article does not provide a complete description of all provisions set forth in the Guidelines, but rather discusses the Guidelines in general with specific focus on selected provisions only.

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ations, but that physicians treating patients via telemedicine will be held to the same standards of appropriate practice as treatment in a face-to-face setting. The Guidelines also highlight that prescribing controlled substances without establishing a face-to-face physician-patient relationship is prohibited and that prescribing narcotics via the internet is always forbidden and considered unprofessional conduct.

The Guidelines also state that written policies and procedures should be maintained for the use of physician-patient electronic communication. Such policies and procedures should address: privacy, processing of electronic communication by health-care personnel, hours of operation, types of electronic transactions, required patient information, archival and retrieval of electronic communications, anticipated turnaround times, and quality oversight. Proper security measures should also be in place to protect patient-identifiable information and a patient's informed consent should be obtained in writing before patient information is relayed via electronic communications.

Conclusion

Although current laws continue to prevent out-of-state physicians from practicing telemedicine in Rhode Island, the above Senate bill and proposed DOH Guidelines would make such practice possible. The DOH has also indicated that it recognizes that telemedicine can have a profound impact on improving the delivery and accessibility of health care in Rhode Island and is therefore committed to facilitating its implementation while ensuring that the integrity of the physician-patient relationship is maintained.