

Telemedicine: The Hidden Risks

Telemedicine Defined

Telemedicine, which the American Telemedicine Association defines as “the use of medical information exchanged from one site to another via electronic communications to improve a patient’s clinical health status,” promises to transform the landscape of health care. Due to the growing population of the elderly, the increasing demand for health care services and the rapid advances in telecommunications technology, a roaring market demand for telemedicine has been created along with the means of satisfying it.

Patient privacy is of paramount concern for all health care providers, and telemedicine only makes that concern more important.

Telemedicine promises to become even more widespread in the coming years—erasing geographic barriers to place general practitioners and world-class specialists in the same virtual room. However, new opportunities present new risks, and some are less obvious than others.

Protecting Patient Privacy

Patient privacy is of paramount concern for all health care providers, and telemedicine only makes that concern more important. Telemedicine is contingent upon the quick and reliable transmission of electronic health records (EHR), which creates an inherent risk of a patient privacy breach.

Patient privacy needs to be secured at every point of access. Consider the following individuals who may have access to your network:

- Doctors, nurses and other employees who use telecommunications equipment
- Employees responsible for moving, storing and servicing telecommunications equipment
- IT personnel—either in-house or contracted out—who perform service or maintenance on networks, systems and equipment
- Guests and patients who are provided with Wi-Fi access

Administrators should work with in-house personnel to ensure every precaution has been taken to secure sensitive patient information. It’s also important to remember that these points of access exist at both the originating and distant site, and that both sites will have to work in conjunction to ensure that every effort has been made to protect patient privacy.

Technical Support

In addition to a data breach, employers need to consider the problems posed by the technology itself. Telemedicine requires real-time communication between the originating and distant site, and any interruption of service between the end points could result in a host of problems. Equipment malfunction could result in miscommunication or misdiagnosis, and if a third party is responsible for the equipment or the transmission of data, servicing malfunctioning equipment could result in

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delays that compound costs or even jeopardize patient health.

One of the best ways to mitigate this risk is to establish processes that reduce the threat of technical problems or equipment failure:

- Develop policies and processes for reviewing current technology and for implementing new technology.
- Establish a maintenance schedule; regularly service technology as needed and make sure that all software and hardware is functioning as it should be.
- Make sure all staff is properly trained and understands how to use the equipment.
- Devise sufficient controls, like passwords and PIN numbers, to restrict access to sensitive patient information.

Regulation and Licensure

Regulation is another major issue facing telemedicine providers. Traditionally, state boards have been responsible for licensing doctors and health care practitioners. So what happens when a health care provider practices telemedicine across state lines?

Generally speaking, the scope of practice—the specific kinds of medical actions that the practitioner is allowed to make—is usually determined by the location of the patient. This can pose problems for practitioners, since laws can vary widely from state to state. State regulations regarding licensure, online prescribing requirements, and informed consent requirements are varied and often conflict with one another or with federal rules.

With so many—often contradictory—regulations to abide by, risk managers recommend that health care providers consult with legal counsel. And, since these regulations are changing rapidly in response to advances

in technology and increasing demand, it's a good idea to continue working closely with counsel to address new or developing risks as they emerge.

Liability—Are You Covered?

Since it's so new, telemedicine might be currently excluded from most insurance policies. For example, many medical malpractice policies only cover face-to-face encounters within the state that a doctor is licensed and practices.

Because of this, it's essential for health care providers to make sure that their liability insurance covers the telemedicine services that they offer. You can work with Harden to make sure your policy offers the specific coverages you need in order to reduce your exposures and mitigate your risks.

Moving Forward

Health care providers need to stay current on new technologies in order to best serve their patients, and telemedicine is one technology that will continue to grow in scope and ability. Navigating your exposures with evolving technologies like telemedicine requires diligence and expertise. Be sure to contact your trusted advisors at Harden to help you identify your exposures.