



Congress Should Address Telemedicine Liability Issues

The coronavirus pandemic has served as a catalyst for the rapid expansion of telemedicine services across America. These services range from online consultations about illness symptoms, to an innovative system that links remote monitoring of vital signs (i.e., temperature and blood pressure), to software that interprets them and sends warning alerts to healthcare professionals. Additionally, telemedicine services are being delivered to patients using a wide array of telecommunication technologies, such as two-way video, e-mail, smart phones, and wireless tools. The use of these technologies has given patients across the country greater access to healthcare services, especially in communities experiencing health workforce shortage. Unfortunately, the swift growth of telemedicine has also brought to the surface a new set of liability issues for healthcare professionals. Congress must take the following actions to address telemedicine liability concerns:

- Determine who bears the liability burden if technology failures prevent the healthcare professional from making an accurate diagnosis or providing appropriate treatment.
- Identify what liability laws apply if a patient is treated by a healthcare professional in another state through telemedicine.
- Clarify what venue applies if a patient is treated by a healthcare professional in another state via telemedicine.

State laws are adequate when both the provider and patient are in the same state, but when interstate treatment is provided, the situation becomes murkier. As Congress considers additional steps to expand the use of telemedicine, it is imperative that the issues above are fully considered. Without addressing the liability issues surrounding interstate telemedicine services, the threat of liability could serve to inhibit healthcare professionals from providing such services, thus limiting access to care at a time when the expansion of access is what is truly needed.

Federal telemedicine liability rules would benefit all stakeholders in the healthcare system by ensuring, in advance, that all participants are fully aware of the liability situation involved when the provision of care crosses state lines. This will put the patient and healthcare professionals on equal footing, thereby establishing a balanced relationship from the initial provision of services. By proactively taking steps to establish medical liability rules when interstate telemedicine services are provided, Congress can bring greater clarity to the realm of telemedicine, expand access to care in those areas that need it most, and help ensure a more stable medical professional liability market for healthcare professionals.

Please Address Telemedicine Liability Issues to Ensure Patients' Access to Care

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