Whereas, Telemedicine is a means of providing a medical service, consistent with accepted standards of care and the establishment of a valid patient-physician relationship; and

Whereas, When telemedicine is medically necessary, there should be no state or federal prohibition against physicians with a valid patient-physician relationship diagnosing patients with mental and behavioral health disorders, consistent with accepted standards of care, and prescribing appropriate medications, including controlled substances, for these patients; and

Whereas, The Ryan Haight Act has certain in-person medical evaluation requirements that generally must be satisfied prior to issuing a prescription for a controlled substance through the Internet; and

Whereas, The Ryan Haight Act contains seven exceptions to the per-se in-person medical evaluation requirement for physicians engaged in the “practice of telemedicine,” but those exceptions, as currently drafted and implemented, are highly technical and have limited utility in the diagnosis and treatment of mental and behavioral health disorders; and

Whereas, There have been recent legislative efforts at the federal level to expand the utility of the exceptions for physicians diagnosing and treating mental and behavioral health disorders (e.g., by attempting to impose a deadline on the attorney general with the secretary of the U.S. Department of Health and Human Services to issue interim final rules related to the special registration exception); and

Whereas, Those legislative efforts have not yet passed into law, which has resulted in continued confusion among physicians diagnosing and treating mental and behavioral health disorders regarding the circumstances under which it is permissible to prescribe controlled substances in the context of telemedicine; therefore be it

RESOLVED, That our American Medical Association support national efforts to amend federal law and federal Drug Enforcement Administration regulations to allow for the e-prescribing of a medication, including a controlled substance, needed by a patient with a mental health or behavioral health diagnosis when an appropriate patient-physician relationship has been established through telemedicine and in accordance with state law and accepted standards of care. (New HOD Policy)

Fiscal Note: Not yet determined

Received: 05/21/18
RELEVANT AMA POLICY

Coverage of and Payment for Telemedicine H-480.946
1. Our AMA believes that telemedicine services should be covered and paid for if they abide by the following principles:
   a) A valid patient-physician relationship must be established before the provision of telemedicine services, through:
      - A face-to-face examination, if a face-to-face encounter would otherwise be required in the provision of the same service not delivered via telemedicine; or
      - A consultation with another physician who has an ongoing patient-physician relationship with the patient. The physician who has established a valid physician-patient relationship must agree to supervise the patient's care; or
   - Meeting standards of establishing a patient-physician relationship included as part of evidence-based clinical practice guidelines on telemedicine developed by major medical specialty societies, such as those of radiology and pathology.
   Exceptions to the foregoing include on-call, cross coverage situations; emergency medical treatment; and other exceptions that become recognized as meeting or improving the standard of care. If a medical home does not exist, telemedicine providers should facilitate the identification of medical homes and treating physicians where in-person services can be delivered in coordination with the telemedicine services.
   b) Physicians and other health practitioners delivering telemedicine services must abide by state licensure laws and state medical practice laws and requirements in the state in which the patient receives services.
   c) Physicians and other health practitioners delivering telemedicine services must be licensed in the state where the patient receives services, or be providing these services as otherwise authorized by that state's medical board.
   d) Patients seeking care delivered via telemedicine must have a choice of provider, as required for all medical services.
   e) The delivery of telemedicine services must be consistent with state scope of practice laws.
   f) Patients receiving telemedicine services must have access to the licensure and board certification qualifications of the health care practitioners who are providing the care in advance of their visit.
   g) The standards and scope of telemedicine services should be consistent with related in-person services.
   h) The delivery of telemedicine services must follow evidence-based practice guidelines, to the degree they are available, to ensure patient safety, quality of care and positive health outcomes.
   i) The telemedicine service must be delivered in a transparent manner, to include but not be limited to, the identification of the patient and physician in advance of the delivery of the service, as well as patient cost-sharing responsibilities and any limitations in drugs that can be prescribed via telemedicine.
   j) The patient's medical history must be collected as part of the provision of any telemedicine service.
   k) The provision of telemedicine services must be properly documented and should include providing a visit summary to the patient.
   l) The provision of telemedicine services must include care coordination with the patient's medical home and/or existing treating physicians, which includes at a minimum identifying the patient's existing medical home and treating physicians and providing to the latter a copy of the medical record.
   m) Physicians, health professionals and entities that deliver telemedicine services must establish protocols for referrals for emergency services.
   2. Our AMA believes that delivery of telemedicine services must abide by laws addressing the privacy and security of patients' medical information.
   3. Our AMA encourages additional research to develop a stronger evidence base for telemedicine.
   4. Our AMA supports additional pilot programs in the Medicare program to enable coverage of telemedicine services, including, but not limited to, store-and-forward telemedicine.
   5. Our AMA supports demonstration projects under the auspices of the Center for Medicare and Medicaid Innovation to address how telemedicine can be integrated into new payment and delivery models.
   6. Our AMA encourages physicians to verify that their medical liability insurance policy covers telemedicine services, including telemedicine services provided across state lines if applicable, prior to the delivery of any telemedicine service.
   7. Our AMA encourages national medical specialty societies to leverage and potentially collaborate in the work of national telemedicine organizations, such as the American Telemedicine Association, in the area of telemedicine technical standards, to the extent practicable, and to take the lead in the development of telemedicine clinical practice guidelines.

The Promotion of Quality Telemedicine H-480.969
1. It is the policy of the AMA that medical boards of states and territories should require a full and unrestricted license in that state for the practice of telemedicine, unless there are other appropriate state-based licensing methods, with no differentiation by specialty, for physicians who wish to practice telemedicine in that state or territory. This license category should adhere to the following principles:
   a) Application to situations where there is a telemedical transmission of individual patient data from the patient's state that results in either (i) provision of a written or otherwise documented medical opinion used for diagnosis or treatment or (ii) rendering of treatment to a patient within the board's state; (b) exemption from such a licensure requirement for telemedicine practiced across state lines in the event of an emergent or urgent circumstance, the definition of which for the purposes of telemedicine should show substantial deference to the judgment of the attending and consulting physicians as well as to the views of the patient; and (d) application requirements that are non-burdensome, issued in an expeditious manner, have fees no higher than necessary to cover the reasonable costs of administering this process, and that utilize principles of reciprocity with the licensure requirements of the state in which the physician in question practices. (2) The AMA urges the FSMB and individual states to recognize that a physician practicing certain forms of telemedicine (e.g., teleradiology) must sometimes perform necessary functions in the licensing state (e.g., interaction with patients, technologists, and other physicians) and that the interstate telemedicine approach adopted must accommodate these essential quality-related functions. (3) The AMA urges national medical specialty societies to develop and implement practice parameters for telemedicine in conformance with Policy 410.973 (which identifies practice parameters as "educational tools"); Policy 410.987 (which identifies practice parameters as "strategies for patient management that are designed to assist physicians in clinical decision making," and states that a practice parameter developed by a particular specialty or specialties should not preclude the performance of the procedures or treatments addressed in that practice parameter by physicians who are not formally credentialed in that specialty or specialties); and Policy 410.996 (which states that physician groups representing all appropriate specialties and practice settings should be involved in developing practice parameters, particularly those which cross lines of disciplines or specialties).