



Telehealth Compliance Checklist

*SAMPLE CHECKLIST ONLY – FOR EDUCATIONAL PURPOSES/
DOES NOT CONSTITUTE LEGAL ADVICE*

Professionals

- Are the telehealth professionals licensed in the state where patient located?
- Are there practice standards for patient examinations and remote prescribing?
- Are professionals documenting and maintaining patient records of the encounters?
- Does insurance policy cover telehealth services?
- Is insurance carrier licensed in every state where services are provided (patient located)?

Medicare/Medicaid

- Do services qualify as covered telehealth services?
- Are services being coded to properly reflect the place of service?
- Is the telehealth service provider located internationally?

Commercial Insurance, Medicare Advantage, and Medicaid Managed Care

- Does the state require commercial coverage of services provided via telehealth?
- Does the provider's contracts reflect said coverage and include negotiated payment amounts?
- Has reimbursement other than FFS been evaluated, such as PMPM, capitation add-ons, or hybrid risk-bearing?

Consent

- Does the informed consent form account for services provided via telehealth?
- Does it recognize patient freedom of choice?

Fraud & Abuse

- If Medicare/Medicaid, does the arrangement comply with the federal Anti-Kickback Statute? (Check provider/vendor arrangements and patient incentive programs)
- If Medicare/Medicaid, does the arrangement comply with the federal Civil Monetary Penalties Law? (Check

provider/vendor arrangements and patient incentive programs)

- Does the arrangement comply with the Stark Law? (Check all physician benefits, including software and equipment tech, to ensure they meet a Stark exception)
- Does the arrangement comply with state patient brokering laws and anti-kickback statutes? (Check provider/vendor arrangements and patient incentive programs)
- Does the arrangement comply with state corporate practice of medicine rules? (Check not just where the brick and mortar facility is located, but where the patients are located)
- If capitated or PMPM compensation, does the arrangement comply with state insurance laws? (Check if exempt and, if not, conduct risk assessment)

Credentialing

- Is there a credentialing by proxy agreement in place that meets all the elements?
- Does the hospital relying on proxy credentialing have such provisions in its bylaws?
- Is the hospital engaging in periodic re-credentialing assessments and reporting?

Privacy & Security

- Are there privacy and security protocols for the telehealth offerings?

For More Information

Learn more about how we can help you with telemedicine compliance matters. Please contact your Foley attorney or the following:

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