

64B8-9.014 Minimum Standards for Telemedicine Prescribing Practice. The practice of telemedicine is recognized as a legitimate form of practice in this state when provided by a physician or physician assistant. The term telemedicine as used herein means synchronous video conferencing, remote patient monitoring, asynchronous health images, or other health transmissions supported by mobile devices (mHealth) or other telecommunications technology used for the purpose of diagnosis, consultation, disease education and management care coordination, or treatment at a site other than the site where the physician or physician assistant is located. The term does not include an audio-only telephone, e-mail messages, text messages, or facsimile transmission.

(1) Prescribing medications based solely on an electronic medical questionnaire constitutes the failure to practice medicine with that level of care, skill, and treatment which is recognized by reasonably prudent physicians as being acceptable under similar conditions and circumstances, as well as prescribing legend drugs other than in the course of a physician or physician assistant's professional practice.

(2) Physicians and physician assistants shall not provide a diagnosis or treatment recommendations, including issuing a prescription, via ~~electronic or other means~~ telemedicine, unless the identity of the patient has been reasonably verified and the following elements have been are met:

(a) A documented patient evaluation, including history and physical examination sufficient to establish the diagnosis for which treatment, including prescription of any legend drug, medical device or service is prescribed provided.

1. When examining a patient who is located at a remote location, the physician or physician assistant must obtain a reliable medical history and perform a physical examination of the patient, adequate to establish the diagnosis for which treatment is being provided and to identify underlying conditions and contraindications to the treatment being provided and conform with minimal standards of care. Prior to initially providing care, including ordering medical devices or issuing a prescription for any drug, device or service, the physician or physician assistant must:

i. establish or have previously established a valid physician-patient relationship;
ii. have and use appropriate diagnostic medical equipment capable of transmitting in real-time the patient's vital signs and other physical data so that the physician or physician assistant is able to evaluate the patient's heart, lungs, blood pressure and body functions that relate to the patient's specific complaint and any proposed treatment;

iii. have and use appropriate diagnostic medical equipment capable of transmitting in real-time images of the patient's symptoms and that also has the ability to be adjusted for better image quality and definition;

iv. have sufficient real-time dialogue with the patient regarding treatment options and the risks and benefits of treatment(s); and

v. establish a diagnosis, a treatment plan, and a plan for follow up with the patient to assess the therapeutic outcome.

~~(b) Discussion between the physician or the physician assistant and the patient regarding treatment options and the risks and benefits of treatment~~ A prescription for a controlled substance shall not be provided for any patient that has not been examined in the physical presence of the prescribing practitioner.

(c) Maintenance of contemporaneous medical records meeting the requirements of Rule 64B8-9.003, F.A.C. and which include documentation of any prescription resulting from such

encounter.

(d) The remote facility is operated in a fashion that affords reasonable assurance of protection of the privacy of the patient and the confidentiality of the patient's health information and is appropriately cleaned and sanitized in a manner that protects against the transmission of illness or infection from patient to patient during the use of the remote facility.

(e) For purposes of this rule, a patient-physician interaction in compliance with subparagraphs (2)(a), (b), (c), and (d) above shall be sufficient to establish a legitimate patient physician relationship and an appropriate basis for diagnosis and treatment of the patient.

(3) The provisions of this rule are not applicable in an emergency situation. For purposes of this rule an emergency situation means those situations in which the ~~prescribing~~ physician or physician assistant determines that the immediate administration of ~~the~~ medication or other services is necessary for the proper ~~treatment~~ care of the patient, and that it is not reasonably possible for the ~~prescribing~~ physician or physician assistant to comply with the provisions of this rule prior to ~~providing~~ directing such ~~prescription~~ care.

(4) The provisions of this rule shall not be construed to prohibit patient care in consultation with another physician who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including the use of any prescribed medications, nor on-call or cross-coverage situations in which the physician has access to patient records.

(5) For purposes of this rule, the term "telemedicine" shall mean the practice of medicine by a physician or physician assistant who is at a location remote from the patient and is communicating with the patient using communication equipment capable of facilitating compliance with the requirements of paragraph (2)(a)1. of this rule and shall not include, but is not limited to, prescribing legend, but not controlled, substances ~~drugs~~ to patients through any of the other following modes of communication:

- (a) Internet or web;
- (b) Telephone; and
- (c) Facsimile.

(6) Nothing contained in this rule shall be interpreted or applied so as to prohibit consultations between physicians or the transmission and review of digital images, pathology specimens, test results or other medical data by physicians or other qualified providers related to the care of Florida patients.

Specific Authority 458.309, 458.331(1)(v) FS. Law Implemented 458.331(1)(q), (t), (v) FS. History--New 9-14-03.

From: Grossman Allen [a.grossman@gfblawfirm.com]
Sent: Tuesday, August 27, 2013 5:03 PM
To: Sanford, Crystal
Cc: ed.tellechea@myfloridalegal.com; Donna.McNulty@myfloridalegal.com;
nancy.murphy@myfloridalegal.com
Subject: Materials for September 9, 2013 Joint Telemedicine Committee Meeting

Attachments: 08-22-13 Draft of Amendments to Rule 64B8-9.014, F.A.C..docx; Proposed Amendments to 64B15-14.008, F.A.C..doc; SB70 (2014)_001.pdf

Crystal,

I called for a reservation at the World Marriott and they indicated that there was a special meeting rate, but that I had to go through the Board of Medicine. Is the Board's rate available for me for Sunday night or should I make a reservation on my own for whatever rate is available?

Also, attached are tweaked versions of the proposed rule amendments for both the Board of Medicine rule (64B8-9.014, FAC) and the Osteopathic rule (64B15-14.008, FAC). This updated version of the Board of Medicine rule amendment includes the suggestions from Chris Nuland on behalf of the Dermatology and Trauma Surgeons' associations and also some new language in line with some of the statutory language in proposed SB70. (Copy also attached) The Board of Osteopathic Medicine proposed rule amendment draft conforms with the changes proposed for the Board of Medicine rule.

Allen R. Grossman

Allen R. Grossman

Grossman, Furlow & Bayó, L.L.C.

2022-2 Raymond Diehl Road

Tallahassee, FL 32308

(850)385-1314

(850)385-4240 (fax)

www.gfblawfirm.com

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64B15-14.008 Minimum Standards for Telemedicine Practice. The practice of telemedicine is recognized as a legitimate form of practice in this state when provided by a physician or physician assistant. The term telemedicine as used herein means synchronous video conferencing, remote patient monitoring, asynchronous health images, or other health transmissions supported by mobile devices (mHealth) or other telecommunications technology used for the purpose of diagnosis, consultation, disease education and management care coordination, or treatment at a site other than the site where the physician or physician assistant is located. The term does not include an audio-only telephone, e-mail messages, text messages, or facsimile transmission.

(1) Prescribing medications based solely on an electronic medical questionnaire constitutes the failure to practice osteopathic medicine with that level of care, skill, and treatment which is recognized by reasonably prudent osteopathic physicians as being acceptable under similar conditions and circumstances, as well as prescribing legend drugs other than in the course of an osteopathic physician's or physician assistant's professional practice. Such practice shall constitute grounds for disciplinary action pursuant to Sections 459.015(1)(x) and (t), F.S.

(2) Osteopathic Physicians and physician assistants shall not provide a diagnosis or treatment recommendations, including issuing a prescription, via ~~electronic or other means~~ telemedicine, unless the the identity of the patient has been reasonably verified and the following elements have been are met:

(a) A documented patient evaluation, including history and physical examination, adequate to establish the diagnosis for which treatment, including prescription of any legend drug, medical device or service is ~~prescribed~~ provided.

1. When examining a patient who is located at a remote location, the osteopathic physician or physician assistant must obtain a reliable medical history and perform a physical examination of the patient, adequate to establish the diagnosis for which treatment is being provided and to identify underlying conditions and contraindications to the treatment being provided and conform with minimal standards of care. Prior to initially providing care, including ordering medical devices or issuing a prescription for any drug, device or service, the osteopathic physician or physician assistant must:

i. establish or have previously established a valid physician-patient relationship;

ii. have and use appropriate diagnostic medical equipment capable of transmitting in real-time the patient's vital signs and other physical data so that the osteopathic physician or physician assistant is able to evaluate the patient's heart, lungs, blood pressure and body functions that relate to the patient's specific complaint and any proposed treatment;

iii. have and use appropriate diagnostic medical equipment capable of transmitting in real-time images of the patient's symptoms and that also has the ability to be adjusted for better image quality and definition;

iv. have sufficient real-time dialogue with the patient regarding treatment options and the risks and benefits of treatment(s); and

v. establish a diagnosis, a treatment plan, and a plan for follow up with the patient to assess the therapeutic outcome.

(b) ~~Sufficient dialogue between the osteopathic physician and the patient regarding treatment options and the risks and benefits of treatment~~ A prescription for a controlled substance shall not be provided for any patient that has not been examined in the physical presence of the prescribing practitioner.

(c) Maintenance of contemporaneous medical records meeting the requirements of Rule 64B15-15.004, F.A.C. and which include documentation of any prescription resulting from such encounter.

(d) The remote facility is operated in a fashion that affords reasonable assurance of protection of the privacy of the patient and the confidentiality of the patient's health information and is appropriately cleaned and sanitized in a manner that protects against the transmission of illness or infection from patient to patient during the use of the remote facility.

(e) For purposes of this rule, a patient-physician interaction in compliance with subparagraphs (2)(a), (b), (c), and (d) above shall be sufficient to establish a legitimate patient physician relationship and an appropriate basis for diagnosis and treatment of the patient.

(3) The provisions of this rule are not applicable in an emergency situation. For purposes of this rule an emergency situation means those situations in which the ~~prescribing~~ osteopathic physician or physician assistant determines that the immediate administration of ~~the~~ medication or other services is necessary for the proper ~~treatment~~ care of the patient, and that it is not reasonably possible for the ~~prescribing~~ osteopathic physician or physician assistant to comply with the provisions of this rule prior to ~~providing~~ directing such ~~prescription~~ care.

(4) The provisions of this rule shall not be construed to prohibit patient care in consultation with another physician who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including the use of any prescribed medications, nor on-call or cross-coverage situations in which the physician has access to patient records.

(5) For purposes of this rule, the term “telemedicine” shall mean the practice of osteopathic medicine by an osteopathic physician or physician assistant who is at a location remote from the patient and is communicating with the patient using communication equipment capable of facilitating compliance with the requirements of paragraph (2)(a)1. of this rule and shall not include prescribing legend, but not controlled, substances to patients through any of the other following modes of communication:

(a) Internet or web;

(b) Telephone; and

(c) Facsimile.

(6) Nothing contained in this rule shall be interpreted or applied so as to prohibit consultations between osteopathic physicians or the transmission and review of digital images, pathology specimens, test results or other medical data by osteopathic physicians or other qualified providers related to the care of Florida patients.

Specific Authority 459.005, 459.015(1)(z) FS. Law Implemented 459.015(1)(x), (t) FS. History–New 10-16-01.