

Checklist: Creating a Defensible and Compliant Record of Virtual Care

Compliance Measures	Status	Action Plan
Basic Business and Operational Considerations		
<p>A written protocol is created, which delineates acceptable uses of remote care technologies, e.g., prescription refills, appointment scheduling, assessment, patient and specialist consultation, and education, among others.</p>		
<p>A thorough, documented due diligence evaluation is conducted of potential telemedicine and telehealth (TM/TH) partners, especially with regard to clinical and technical compatibilities.</p>		
<p>A business associate agreement is signed with all TM/TH partners, pursuant to HIPAA privacy rule requirements.</p>		
<p>A record is maintained of TM/TH partners' contact information, including business email addresses.</p>		
<p>A "memorandum of agreement" is written, reviewed by legal counsel and entered into with partner sites.</p>		
<p>The memorandum is checked to ensure that it provides specific answers to key questions about the partnership arrangement, including the following:</p>		
<ul style="list-style-type: none"> • Who provides support staff? 		
<ul style="list-style-type: none"> • Who pays for telecommunication connections? 		
<ul style="list-style-type: none"> • Who supplies and maintains equipment? 		
<ul style="list-style-type: none"> • What space is available for TM/TH encounters? 		
<ul style="list-style-type: none"> • Who manages the billing process? 		
<p>A TM/TH coordinator is designated and a job description written, assigning the coordinator responsibility for providing administrative support for consultations/referrals, program functioning and system processes.</p>		
<p>A written TM/TH procedure manual is developed, which addresses a broad range of clinical processes that occur before, during and after consultations.</p>		
<p>The procedure manual is reviewed by affiliated healthcare providers to ensure that it conforms with practice guidelines issued by national associations.</p>		
<p>Uniform referral and scheduling guidelines are drafted and included in partnership agreements.</p>		
<p>A formal policy for reserving TM/TH equipment and space is promulgated, which includes a conflict resolution protocol.</p>		
<p>A written protocol is instituted to guide the patient selection process, which includes specific parameters for referral to TM/TH providers, such as patients who require the following types of treatment:</p>		
<ul style="list-style-type: none"> • Chronic care management. 		
<ul style="list-style-type: none"> • Acute, uncomplicated care. 		
<ul style="list-style-type: none"> • Medication management. 		
<ul style="list-style-type: none"> • Pre- and post-operative care. 		
<ul style="list-style-type: none"> • Mental health therapy. 		
<ul style="list-style-type: none"> • Nutrition services. 		
<ul style="list-style-type: none"> • Specialty care referral. 		

Basic Business and Operational Considerations (continued)

A consistent patient registration process is implemented for distant site facilities.

Formal procedures are established for patient testing and notification, including documentation of test results and follow-up measures in the patient healthcare information record.

A procedure to escalate care in emergency situations is adopted, which includes consulting with other providers, accessing backup technology for immediate use and arranging prompt in-person intervention if necessary.

Provider Fitness and Preparedness

Licensure verification records are maintained for physicians, nurse practitioners, physician assistants and other designated healthcare professionals (hereafter “providers”) involved in the delivery of virtual care.

TM/TH credentialing, privileging and peer review processes are developed for providers, reflecting patient safety, jurisdictional and liability considerations.

Roles and responsibilities related to the provision of virtual care are clearly defined by regularly updated formal policies, which are disseminated to different medical disciplines and staff levels.

Guidelines are adopted to ensure that TM/TH services are offered only when there is a professional relationship between the provider and the patient, as defined by the following criteria, among others:

- **Knowledge of the patient and the patient’s health status** through an ongoing personal or professional relationship.
- **A previously conducted in-person examination** of the patient.
- **Availability for appropriate follow-up care** at medically necessary intervals.
- **Past treatment of the patient in consultation with another professional** who has an ongoing relationship with the patient.
- **An on-call or cross-coverage arrangement** with the patient’s regular treating healthcare professional.

Providers are formally instructed and regularly informed that the same standard of care applies to both TM/TH services and in-person care, and it is neither modified, enhanced nor reduced simply because a patient visit is conducted remotely.

Receipt of TM/TH-related policies and procedures is acknowledged in writing by providers, who are tested on their comprehension, including how and when to do the following:

- Schedule a consultation.
- Arrange for a consulting room.
- Set up necessary equipment.
- Establish network connections.
- Prepare and advise the patient and consulting provider, if applicable.
- Document consultation findings.
- Secure and back up required data.
- Prepare reports of virtual care episodes.

Compliance Measures**Status****Action Plan****Provider Fitness and Preparedness (continued)**

Educational and professional development requirements are specified in writing , including participation in pilot programs, as well as familiarity with clinical protocols, equipment capabilities and documentation requirements.		
Providers and staff members are tested for general computer proficiency , as well as knowledge of software applications and device features and connectivity, and records are maintained of testing results.		
Providers are trained on an ongoing basis in virtual care protocols , including proper documentation practices.		
Staff members are trained in incident reporting , and adverse TM/TH occurrences are tracked and trended for quality improvement purposes.		

Technical Safeguards

Organizational standards and technical specifications are developed to promote safe and effective delivery of care, covering such areas as bandwidth, interoperability, verification of data transmission, equipment maintenance and on-site technical support.		
A private and secure computer network is maintained to protect patient confidentiality and the integrity of data exchanged between sites and providers.		
Equipment and software are catalogued by make, model and serial number , and are tested for functionality and interoperability prior to use.		
Warranties on all TM/TH equipment are filed for easy reference , as are all equipment maintenance records.		
A system is created to swiftly inform staff of technical glitches – such as a disconnection with a remote site during a consultation – that may affect clinical outcomes.		

Privacy and Security Provisions

All TM/TH policies and procedures are reviewed periodically for compliance with extant regulations relating to patient privacy.		
Rules are established regarding the virtual consultation process and environment , including the following, among others:		
• TM/TH sessions are scheduled in a suitable clinical setting that offers both seclusion and professional amenities, when possible.		
• Consulting spaces are identified by clearly visible signs , indicating that a private patient session is in progress.		
• Appropriate security measures are implemented during the transmission process , including such critical functions as authentication, patient identification, data control and tracking, and Wi-Fi protected access.		
Measures are taken to protect the confidentiality of patient information , including the following, among others:		
• Electronic privacy safeguards, such as use of passwords and/or encryption.		
• Physical site security.		
• Securing of store-and-forward images and other patient records.		
• Confidentiality agreements for all personnel involved in TM/TH, including vendor staff.		

Compliance Measures

Status

Action Plan

Privacy and Security Provisions (continued)

Providers are trained to comply with HIPAA, CMS, CDC and other state and federal regulations and guidelines relating to protection of patient privacy and confidentiality.

A policy is adopted prohibiting use of personal email accounts for the exchange of protected patient health information, and mandating use of network-based accounts or secure, facility-approved messaging applications.

Clinical Documentation and Recordkeeping

A standard method of collecting and storing TM/TH information is implemented at both originating and distant sites, if applicable.

TM/TH documentation formats are standardized and integrated with electronic patient health information records.

Virtual care encounters are thoroughly documented, including, but not limited to, the following information:

- Patient name and identification number.
- Originating facility's name.
- Distant facility's name, if applicable.
- Registration information (i.e., patient identification number and provider assignment) at distant site, if applicable.
- Date of service.
- Referring provider's name, if applicable.
- TM/TH provider's name.
- Type of evaluation to be performed.
- Informed consent form and signature.
- Diagnosis/impression of providers.
- Recommendations for further treatment.

A formal process is established for obtaining and documenting patients' informed consent for TM/TH services, encompassing the following information, per the [Federation of State Medical Boards](#):

- Patient identification, including name and date of birth.
- Names, credentials, organizational affiliations and locations of physician and/or other healthcare professionals involved in the visit.
- Name and description of the recommended procedure.
- Potential benefits and risks of the procedure.
- Possible alternatives, including no treatment.
- Risks of declining the treatment/service.
- Confirmation that patient understands and accepts remote care delivery mode.
- Contingency plans in the event of technical problems during the procedure.
- Explanation of how care is to be documented and accessed.
- Security, privacy and confidentiality measures to be employed, as well as extent of risk to privacy notwithstanding such safeguards.
- Names of those responsible for ongoing care.
- Reiteration of the right to revoke consent or refuse treatment at any time.
- Consent of patient to forward patient-identifiable data to a third party.

Quality Improvement

A formal TM/TH quality improvement program and review process is implemented, which tracks the following quality of care indicators, among others:		
• Equipment or connectivity failures.		
• Number of attempted and completed visits.		
• Average waiting times.		
• Patient and provider satisfaction with virtual patient encounters.		
• Patient or provider complaints related to virtual visits.		
Outcome metrics are decided upon to monitor and assess the clinical quality and efficiency of virtual care encounters, including the following:		
• Patient complication and morbidity rates.		
• Provider compliance with performance criteria, including productivity and patient satisfaction levels.		
• Diagnostic accuracy.		
• Adherence to evidence-based clinical protocols.		
• Referral rates.		
• Cost per case.		
• Delays in accessing consultations, referrals or specialty practitioners.		
Outcome findings are reported to the Quality Improvement Committee (QIC) on an ongoing basis.		
Written guidelines are developed for auditing TM/TH practitioners and sharing internal review information – including virtual care-related adverse events – with established quality improvement and risk management programs.		
TM/TH-related policies, procedures and staff training efforts are reviewed every six to 12 months, with revisions based upon incident report findings and assessment of the program’s overall safety, effectiveness and efficiency.		
Regular equipment testing and maintenance is performed and documented, including post-installation testing and pre-session calibration, as well as ongoing quality checks of audio, video and data transmission capabilities.		
Routine audits of equipment and software functionality are conducted, and reports are prepared for the QIC.		

This resource serves as a reference for healthcare organizations seeking to evaluate risk exposures associated with telemedicine and telehealth. The content is not intended to represent a comprehensive listing of all actions needed to address the subject matter, but rather is a means of initiating internal discussion and self-examination. Your organization and risks may be different from those addressed herein, and you may wish to modify the activities and questions noted herein to suit your individual organizational practice and patient needs. The information contained herein is not intended to establish any standard of care, or address the circumstances of any specific healthcare organization. It is not intended to serve as legal advice appropriate for any particular factual situations, or to provide an acknowledgement that any given factual situation is covered under any CNA insurance policy. The material presented is not intended to constitute a binding contract. These statements do not constitute a risk management directive from CNA. No organization or individual should act upon this information without appropriate professional advice, including advice of legal counsel, given after a thorough examination of the individual situation, encompassing a review of relevant facts, laws and regulations. CNA assumes no responsibility for the consequences of the use or nonuse of this information.