WashingtonState TelehealthCollaborative

Meeting Minutes

Thursday, May 6, 2021 | 10:00 am - 12:00 pm

Virtual Zoom Only Meeting

Member attendance					
Sen. Randi Becker	N/A	Kathleen Daman	Y	Dr. Ricardo Jimenez	N
Sen. Annette Cleveland	N	Dr. Josh Frank	N	Dr. Geoff Jones	N
Rep. Marcus Riccelli	Y	Joelle Fathi	N	Dr. Catherine (Ryan) Keay	N
Rep. Joe Schmick	Y	Karen Gifford	N	Scott Kennedy	N
Dr. John Scott	Y	Dr. Frances Gough	Y	Mark Lo	Y
Dr. Chris Cable	Y	Sheila Green-Shook	Y	Denny Lordan	N/A
Jae Coleman	Y	Emily Stinson	Y	Adam Romney	Y
Stephanie Cowen	Y	Sheryl Huchala	Y	Cara Towle	Y
				Lori Wakashige	Y

Non-Member Presenters: Michael Farrell (WMC), Nicole LaGrone (UW)

Public attendees *(alphabetical by first name)*:

Amy Etzell (BREE Collaborative), Barbara Wayland (PRPHD), Carrie Tellefson (Teladoc Health), Chad Gabelein (Multicare), Christopher Chen (HCA), Claire Fleming (Virginia Mason), Erica Drury (unknown), Gail McGaffick (WSPMA), Gayle (National MS Society), Hanna Dinh (UWM), Heather Alder (unknown), Jeb Shepard (WSMA), Joana Ramos (unknown), Kai Neander (Evergreen Health), Kati Kola (unknown), Kevin Gordan (WA Gov), Kristine Joy Culala (UWM), Lauren Baba (UW), Leslie Emerick (Independent Lobbyist), Lia Carpeneti (Community Health Plan of Washington), Marissa Ingalls (Coordinated Care), Micah Matthews (DOH), Mike Farrell (WMC), Mike Sirott (OPW), Mike Zwick (unknown), Nancy Lawton (unknown), Naomi Yanagishita (unknown), Nicki Perisho (NRTRC), Nicole Goodman (Unknown), Patrick O'Brien (UWM), Rachel Abramson (UWM), Sean Graham (WSMA), Shannon Thomson (WMHCA), Stephanie Cowan, Stephanie Shushan (CHPW), Tracie Drake (DOH), Tyler Bloom (SeaMar)

Meeting began at 10:01 am

WashingtonState TelehealthCollaborative

Welcome, Attendance and Review of Meeting Minutes - May 6, 2021

John Scott [0:00]

Dr. Scott (Chair) reviews minutes. Mark Lo (Seattle Children's) motions to approve minutes. Rep. Schmick (R-9) seconded. Unanimously approved.

Action Items:

- Ms. LaGrone (Collaborative Program Manager) to post approved March 2020 notes on WSTC website

Telehealth Minors and Consent

Dr. Mark Lo, Telehealth Director Seattle Children's Hospital

All [7:10]

Presentation Summary

Dr. Lo highlights the importance of establishing a consent process for virtual visits and shares the challenges Seattle Children's has encountered in obtaining pediatric consent for telemedicine as well as best practices. Overall, consent from pediatric patients requires clinics to consider chronological vs. developmental age, conditions that do not require guardian consent, and the privacy of the telehealth visit.

Collecting Pediatric Consent

- Generally 18+ is the accepted age to be able to give consent, <18 cannot give consent for themselves except in instances of reproductive health, mental health, or substance abuse. In these cases, it is for those 13 yo or older.
- For children or adults with the cognitive age <18 then it is important to clarify **who** is giving consent on their behalf.

Challenges with pediatric consent and telehealth

  - How to obtain consent virtually? And how to verify identity
  - Parents may sign off on consent but patient does not have privacy during the visit
  - Harder to identify coercion
  - Should parent be shielded from visit/if consent is not necessary
- Considerations for Portal Access
  - Parents can have proxy access to patient profile
    - Advantages: streamlined offers identify verification, notifications, etc.
    - Disadvantages: unclear when proxy access is no longer needed or necessary, more complex than showing up in person, portals often limited to English only

Strategies Used at Seattle Children's

- Obtaining Consent

- Registration/MA staff are responsible for clarifying identity of patient and parent as part of registration and virtual check in
- Consolidation of ambulatory consent and telehealth consent form, each form is applicable for a year. Consent can be given in person, over the phone, or virtually
- Smartphrase for providers to read to obtain consent from patient during virtual visit
- Banner pops up when consent is not on record

Virtual Visit Best Practices for Minor Privacy and Consent

- Ask for virtual panning of the room to identify and introduce everyone in the virtual and physical space
- Multiple invitation links for parent/guardian and for teen/patients
- Teens have been choosing to return to in person visits because they lack privacy when doing virtual visits at home
- Cut off parental access from patient portal at age 13, foster parents not allowed to have portal access, SCH uses texting to establish virtual visit appointments

Questions & Discussion

- How do you verify identity of child without ID?
  - Response Dr. Lo - We verify the identity of the adult.
- How many entities have ended up having to create two records - basically the one they have on file and then another one for those patients over 13 for those things that do not require parental consent? I know that this issue is also coming up as work to bring more School Based Health Centers online is discussed, have a dual track with telehealth.
  - Response Dr. Lo - Switch the portal over at 13.
- Have you incorporated in your provider training how to look for signs of abuse for children and domestic violence victims? I would think the sign are unique given the inability to visually see all body language and not know if someone is in the room with them.
  - Response Dr. Lo - We are all mandated reporters but don't have specific training around identifying abuse virtually beyond the same signs we look for in in-person visits i.e. Bruising in head and neck, patient/guardian interaction, can be signs. Earlier in pandemic, patients were more comfortable with their home environment which could help with a nutrition or dietician visit. However, more and more patients are opting to use a virtual background.
- How do you verify validity of a guardian relationship? If person shows ID and says they are a foster parent, do you validate that guardianship?
  - Response Dr. Lo - Not easy, but we rely on insurance information. There is some good faith in that they are bringing the child in for medical care.
- Is there a need for a policy intervention or response for this?
  - Response Dr. Lo - Not on a state level, but it is important for healthcare facilities to understand there are some specific considerations for pediatric patients.
- Is there a slide on pediatric consent in the WA State Telehealth Training?

- Response Ms. LaGrone (WSTC) & Ms. Perisho (NRTRC) - There is not a slide specifically dedicated to it, but it is embedded into a slide about best practices.

Action Items:

- Loop back and review slide on patient consent at next meeting

Policy Updates

Ms. Nicole LaGrone (WSTC), Rep. Marcus Riccelli (D-03), [29:24]

HB 1196 - Audio Only Reimbursement Bill

Intended for rural underserved areas to be able to provider certainty of reimbursement for providers who can only offer audio only services for patients with an established relationships. Other elements of the bill: Collaborative asked to produce report about the impact of established Patient Relationships, extended WA Telehealth Collaborative to 2023, and asks Office of Insurance Commissioner, HCA, and WSTC to make recommendations regarding audio only uptake and impact in 2023.

- During legislative process, some groups shared concerns about the importance of in-person visits to younger patients and that this may result in more phone only visits.

HB 1378 - Concerning Supervision of Telemedicine Visits

Allows medical assistants assisting with telemedicine visit to be supervised through interactive audio and video telemedicine technology.

- During legislative process, some groups shared concerns about the importance of in-person visits to younger patients and that this may result in more phone only visits.

Broadband Policy - Several bills passed this year to support the expansion of broadband infrastructure including $411 million in funding.

Digital Equity - $7.5 million made available to ensure students have access to devices, $5 million for digital equity work, including Emergency Broadband Benefit to help families and households struggling to afford internet service.

Federal Updates

Two federal bills discussed at previous meeting did not pass. However, CONNECT Health Act has been proposed for a 4th time, sponsored by 50 senators. Primarily focused on Medicare patients. Key elements of bill - permanently removes restrictions on patient locations and Federally Qualified Health Centers allowed to offer telemedicine services.

Questions and Discussion

- In general, broadband policy and digital equity discussion is dominated by education field, even though there are benefits for public health and medicine as well. (Rep. Riccelli)
- WA State Broadband Office released their first biannual report.

Action Items

- Collaborative to begin reviewing established relationships for audio-only visits in June 2021 meeting
- Program Manager (Nicole LaGrone) to follow up with DOH that the passage of HB 1378 means that MAs are not required to complete the state telehealth training for providers

Member Lessons from Covid-19: Insurance Providers

Kathleen Daman (Swedish), Dr. Scott Kennedy (Olympia Medical Center), [50:07]

Collaborative members representing insurance providers share their lessons learned from the past year.

Swedish, Kathleen Daman

- Initial huge push during Spring 2020 - enabled 7000 providers in 7 days to provide telehealth, launched Covid-19 Home Monitoring for patients discharged from hospital to monitor symptoms, launched Zoom program across 7 states, received federal grant for devices to be sent to acute care facilities to reduce use of PPE, provided virtual critical care to NYC hospital system.

Olympic Medical Center, Dr. Scott Kennedy

- Patient population is older and majority Medicare. During pandemic, we increased services via telephone, MyChart, and Home Health.
- Have identified which services can be provided safely and more efficiently via these modalities. Have yet to develop platform for broader telehealth services.
- Need for social work resources in ED has dramatically increased, currently launching a 24/7 tele-social work line to tele-psych services. May team up with other smaller systems to provide services.

Regence, Jae Coleman

- Paying for network telehealth since 2015.
- Telehealth benefits are a standard for individual and group offerings, 75% of self-funded groups added telehealth to their plans in response to Covid-19 pandemic.
- Practitioners have had to shift how they think about practice and what the future holds.
- Drop in in-person visits in March/April 2020 was almost back to normal by June/July 2020
- Telehealth is not going anywhere, biggest shift in behavioral healthcare.
- Member satisfaction is high, members are demanding telehealth.

Molina, Dr. Francis Gough

- Telehealth leveled off at about 20% of total visits. Mostly behavioral health, but a lot of occupational and physical therapists related to substance use disorder management.
- Commercial members catching up on screenings and in-person needed visits, Medicaid members not so much.
- Found BIPOC communities are not adopting telemedicine to the same level as white communities. Identified a couple of key areas where access or technology availability isn't the issue, but a lack of trust.
- Currently spearheading some projects to help build trust in those communities.

Premera, Heather Alder(standing in for Sheryl Huchala)

- Questions in the beginning related to billing, IT support, and what is covered. Questions have declined over time as telehealth use has increased.
- Providers want to continue offering this in the future - result of demand and also the investment in technology has already been made.
- Looking at Medication Assisted Treatment (for substance abuse) with telehealth.

Question/Discussion:

- Marissa Ingalls (Coordinated Care) We've seen high engagement with our foster care members, but telehealth is working best for adolescents. It has been less successful for higher needs and younger children, and is stressful on caregivers as they have to help manage the virtual interaction. There is a lot to learn from the data we are getting both through claims and from our clinical teams. We were very proactive at the beginning of COVID to make sure foster care children have devices so they could access telehealth. Claims went up around 9000% for this population last year, which is exciting as that means children are still getting the services they need in some way.

Action Items:

- More members will be able to share at the next Collaborative meeting

Medical Malpractice in Telehealth

Adam Romney (Davis Wright Tremaine, LLC), Michael Farrell (Washington Medical Commission) [1:12:41]

Malpractice Claims in Telehealth Presentation Summary

Adam Romney is an attorney with expertise in telehealth and health care law at Davis Wright Tremaine, LLC in Seattle)

- Spike in telehealth utilization, telehealth now ⅓ of all visits and Medicare telehealth claims increased 11,000%.
- Currently, malpractice claims are relatively uncommon, but given increase in visits, that may change.
- Malpractices claims generally related to misdiagnosis.
- 2019 survey in *JAMA* found no reported cases of medical malpractices in telemedicine, Why?
    - Telemedicine visits are usually low risk/acuity, many models refer patient to specialists, not attractive to litigation due to low dollar value.
    - Doesn't mean there aren't claims, just that they didn't make it to trial. Many could be settled outside of court.
- In reference to RCW 7.70.30 a plaintiff claiming Medical Malpractice must prove:
    - the healthcare provider *failed* to exercise that degree of care expected of a reasonably prudent health care provider at that time, in the profession acting in the same or similar circumstances
    - Failure was a proximate cause of the injury
    - Treatment relationship established
    - Damages resulted
- There are no published telehealth malpractice cases in Washington.
- Past claims across the country that have occurred in telehealth were mostly related to missed diagnosis whether because the provider missed a diagnosis or didn't conduct an evaluation that should have been performed.
    - 25% missed cancer, 20% stroke, 10% orthopedic, and 25% uncategorized.
- Additional malpractice risks for providers conducting telemedicine:
    - the information collected during the telemedicine visit is sufficient to make a medical diagnosis.
    - Poor integration between a telehealth service line and existing care team. Providers on telehealth platform often a third party that does not have access to the patient's medical record.
    - Authentication process - doctor and patient identity and location - particularly for malpractice coverage for patients in other states.
    - Internet Prescribing - opioids and other restricted medications, over-prescribing, contra indications (like allergies or interactions with other medications).
    - Consent - as telehealth continues, a robust consent process is needed
    - Privacy and Data - HIPAA rules not waived permanently, but civil claims are still possible, data produced by wearable devices reliable for medical insights.
- Often cited cases of Telemedicine Cases:
    - Licensure: *Frazier v. Univ. of Miss. Med. Ctr.,* 2018 - nurses administered prescription prescribed by physician in another state

    - Standard of Care: *White v. Harris*, 36 A.3d 203 (Vt. 2011) - telemedicine psychiatrist found not to intervene enough with depressed teen who later committed suicide.
    - State Telehealth rules: *Low Cost Pharm., Inc. v. Ariz. State Bd. Of Pharm*., 2008 Ariz. App. Unpub. LEXIS 790 (Ariz. Ct. App. May 20, 2008) - physicians should be familiar with state prescribing law.
- Key Questions for Providers
    - Is this the right way to see a patient? When is it appropriate to refer them to in-person?
    - Does malpractice insurance cover these visits?

Washington Medical Commission, Michael Farrell

- WMC standard of care telemedicine same as in-person.
- Guidelines will be updated after commission completes rules process.
- 14 disciplinary actions since 1999 - all involve physician prescribing a medication after reviewing a static questionnaire by the patient. Two cases of license revocation - but they were extreme cases and resulted in criminal convictions.
- WMC has not yet received a misdiagnosis case, but when that happens it would compare the physicians conduct to the standard of care rules.
- Licensing - do not have a telemedicine specific license but *SB 5423* which creates a new exemption and allows an out of state licensed physician to provide guidance for a Washington based patient.
- Commission holds workshops to review rules and hear public opinion. Next workshop where telehealth will be discussed is June 4, 2021.

Questions and Discussion

- Adam, do you think existing informed consent RCW in Washington is sufficient for the purposes of telemedicine?
    - Response from Adam Romney: I like that the WMC recommends it and provides some flexibility, given the range of telehealth modalities. It leaves judgement in it.
- Should we record Telemedicine visits? Most direct to consumer companies record the visit while many office physician's do not record visits.
    - Response from Adam Romney: A lot of reasons not to. If you wouldn't record an in-person visits, why would you record via telemedicine? It is discoverable and could be used in court. It also invites data storage/privacy issues that you will have to be a steward over. Particularly difficult if a third party is involved.

Wrap Up/Public Comment Period

[1:52:52]

- Next meeting June 24, 2021 10AM-noon

- I see that the Bree Collaborative is also studying telemedicine. Can someone address how the Telehealth Collaborative and the Bree Collaborative will coordinate, if at all?
    - Cara Towle attends the BREE Collaborative meetings and can update, as can Amy Etzel.

Tentative Next Meeting Items:
BREE Collaborative Updates
NRTRC Conference Updates
HB 1196 Discussion - Established Patient Relationship
Covid-19 Member Updates

Meeting adjourned at 11:57 am

Next meeting: June 24, 2021 10 am - Noon
Via Zoom.