Regulatory, Professional Liability and Payment for Telemedicine in Canada

Presented by:
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AGENDA

• Regulatory, professional liability and payment issues for Telemedicine (TM)

• Pan Canadian perspective

• Ontario perspective
OTN Vision

Telemedicine will be a mainstream channel for health care delivery and education.
Health Care in Canada

- **Canada Health Act (federal)**
  - Management of health care services delegated to Provinces
  - Enshrines universality of physician and hospital services.

- **Socialized health care system**
  - Government is single insurer of most physician services

- **Each province designs and runs their own Health Care system**
  - Substantial regulatory and payment differences for telemedicine between Provinces
Regulatory
Regulatory Issues in Canada

- Where does the virtual care episode occur; at the patient or provider site?

- Each province has developed their own view

- FMRAQ (Federation of Medical Regulatory Authorities of Canada) initially advocated for patient site but has since become neutral

Currently, there is no national licensure system for cross-jurisdictional telemedicine practice
Licensure considerations

2 aspects of interest for TM:

1. QUALIFICATIONS
   - Criteria for licensure varies between provinces and internationally

2. LOCUS OF RESPONSIBILITY
   - Is care delivered where the physician is located or where the patient resides?
## Licensure requirements vary by province

<table>
<thead>
<tr>
<th>Province</th>
<th>TM Licensure requirements for Out-of-Province Physicians</th>
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<tbody>
<tr>
<td>Alberta and Saskatchewan</td>
<td>• Full license required to practice telemedicine</td>
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<tr>
<td>New Brunswick</td>
<td>• May be entered on the Telemedicine Provider List, without licensure; to provide occasional or limited telemedicine services</td>
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<tr>
<td>Manitoba, Nova Scotia, British Columbia and Quebec</td>
<td>• No license required to practice telemedicine</td>
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Licensure in Ontario

- College of Physicians and Surgeons of Ontario (CPSO) maintains jurisdiction over its members wherever they may practice and will investigate all complaints.

- Suggests MDs using telemedicine for patients outside of Ontario comply with licensing requirements in that jurisdiction.

- Same standards of care for F2F and TM.

Currently, CPSO is silent on where the locus of responsibility resides and TM licensure for out-of-province MDs.
Revision of CPSO Policy

- Considering equivalent licensing requirement for out-of-province physicians

- Full licensure vs. limited /special licenses

- Mandate to protect the public

- Importance of establishing a monitoring mechanism for out-of-province physicians providing care to Ontario patients via telemedicine
Other Health Care Colleges

- Colleges of Nursing, Occupational Therapy and Psychologists have telemedicine guidelines.

- Standards of practice, licensure, jurisdictional issues and professional liability articulated.
## International Licensure Comparison

<table>
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<tr>
<th>Country</th>
<th>TM Licensure requirements</th>
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| New Zealand      | • Must be registered in the country of the patient  
                   • When treating the patient the MD remains subject to the laws of NZ  
                   • Out of country MDs do not need to be registered but the patient remains under the care and supervision of the NZ referring MD |
| UK               | • Responsibility of contracting body in UK to ensure MD appropriately licensed in the country where they practice.                                   |
Hospital Credentialing in Ontario

- Public Hospitals Act outlines MD credentialing
- Labour intensive process for hospital and MDs
- Pre-dates virtual health care
- Potential TM ‘show stopper’
- OTN and OHA suggest credentialing only necessary at hospital where the consultant MD is located
Professional Liability in Canada

- Most MDs are members (insured) with CMPA

- CMPA will assist MDs who provide care by telemedicine when:
  - The patient is in Canada
  - The member is either in or outside of Canada
  - In general will not assist when the patient is outside of Canada
  - In general will assist with members giving advice to their existing patients who are temporarily out of the country

- Encourages members to comply with the regulatory requirements of the licensing College in both the Province of the MD and the patient.

- Encourages members to practice with the same standards of care as for F2F
Privacy and Record Keeping in Telemedicine

- MDs have a legal obligation to maintain PHI and health records in accordance with relevant legislation.

- With ‘out of province’ care MDs need to be aware that multiple privacy and health record keeping statutes may apply; and must comply with all of them.

- Requests from patients to record session:
  - Ensure will not compromise the evaluation
  - Make a recording at both sites to ensure not edited.
Payment
Physician Payment

- Historically most MDs in Canada bill FFS
- Increasing number of MDs are salaried or funded by capitation in Ontario
- There are 10 Provinces and 3 Territories – all have their own FFS plan
- 9 of 13 bill TM using existing FFS codes; 2 created new codes (NWT and Yukon)
- 8 of 13 include TM premiums in additional to FFS codes
## Physician Payment in Ontario

<table>
<thead>
<tr>
<th>Date</th>
<th>Physician Payment</th>
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<tbody>
<tr>
<td>1998 to 2006</td>
<td>• OTN</td>
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<tr>
<td>2006</td>
<td>• bill OHIP using F2F codes and telemedicine premium (non-insured)</td>
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<tr>
<td>2012</td>
<td>• Some services insured (case conferencing, eConsult)</td>
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<td>• 5 virtual care items included in the OMA/MOH Agreement: (NHTG, hospital to primary care communication, TM premium, e-Referral and patient eConsults)</td>
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<tr>
<td>2013</td>
<td>• SF dermatology and ophthalmology</td>
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Out of Province TM Work

- OHIP requires both the MD and the patient to be geographically in Ontario.

- Reciprocal billing can be used when an Ontario MD provides a service to a patient in another Province or Territory (except Quebec).

- Out of Province MDs can bill their Provincial Insurer for services provided to a resident in Ontario.
Future Payment

- 2014 – next OMA/MOH Agreement – anticipate virtual services will be fully insured

- Historically, new insured TM services not always aligned with work processes or the right dollar value

- Important to design new fees so that they incentivize MDs to use virtual care services in their practices
Summary

- Complex

- Large variations between Provinces and Territories

- Unified national approach?

- Must enable and incentivize providers to adopt virtual services
Thank You!

For more information contact

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