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Article

The Telemedicine Landscape in a Post Covid World

Marc Martin • October 16, 2023

The field of telemedicine was already growing at a very steady pace when COVID-19 hit three years ago, but after the virus emerged and the severity became clearer, the telemedicine industry's growth exploded. Companies were forced to start using telemedicine in their practices to provide a continuum of care for patients, and while this created its own unique set of challenges in the short term, it also opened up opportunities that impact how patients receive medical care and services to this day.

The role and challenges of platform software

When brick and mortar healthcare providers started offering telemedicine for the first time under challenging COVID-19 circumstances, the shift was made at such a rapid pace that there were inevitable growing pains. In the race to offer immediate care, some companies purchased platform software without pausing to consider who owned the data on the platform and how the platform interacted with current electronic medical records. This rush often proved to be their detriment when they eventually realized they had lost ownership of their own data or locked themselves into software that did not meet their needs.

Three years on, though the initial mania and subsequent confusion has abated, the utilization of platforms continues to grow. From mental health and wellness to specialty care, today's telehealth platforms are focused on the need to provide omnichannel care that includes a mix of delivery services. In this environment, an insurance policy must flex to address different modes of delivery. As a carrier partner, we have never prescribed how our clients deliver healthcare, but we recognize that exposures may be different and endeavor to address them.

A changing scope of services for practitioners

As COVID-19 swept across the country at an alarming rate, telemedicine companies that had previously been focused on areas as

varied as lifestyle, wellness, vision, and dental services saw an opportunity to capitalize on the immediate need for COVID-19 testing, prevention, and treatment. Many moved away from their core business models into infectious disease, certainly raising the question as to whether a dermatologist is the best specialist to be treating or diagnosing COVID-19.

Fast forward to today and COVID-19 exposures have come down, eliminating the need for as many infectious disease services. With risks boomeranging, today's challenges are more related to what to do with resources and staffing, and providers are finding themselves redeploying staff and bidding on new government contracts. In the US, many are moving toward treating migrants due to the previously unmet needs of that population. Likewise, in Canada, we have seen providers pivot operations to more routine care or to another niche; for example a COVID-19 testing provider may have transitioned into other forms of testing using the same mobile platform.

As insurance underwriters, we are always happy to adapt coverage terms as our clients' businesses evolve, but we only know to make these adjustments if our broker partners recognize the changing exposures and keep us informed. There is a level of communication that must happen between the insured, the broker, and the carrier to guarantee that everyone is on the same page; only with that all-important transparency are we able to ensure appropriate cover for an organization's current practice.

US regulatory evolution

Healthcare regulation in the US has both federal and state components, and COVID-19-related emergency measures were put into place at both levels. Most state law with respect to telemedicine was very welcoming, allowing providers to offer their services even when it wasn't practical for patients to come into brick-and-mortar offices. During this period, states also waived some aspects of their licensing requirements, and many also took steps to coordinate the licensure process for providers to practice telehealth across state lines. On a federal level, emergency use authorizations (EUAs) were implemented to relax regulatory applications, with the goals of easing healthcare staffing burdens and meeting the immediate needs of the higher-than-typical number of people seeking care.

Since that time, some of those emergency measures have been 'sunsetted' while others have been renewed or left alone, and this has left a lot of organizations unsure where they sit in the legal landscape. Depending on where services are being provided and where the providers are licensed, organizations need to be sure that they're keeping up with applicable state law requirements to remain in compliance. As telehealth organizations scramble to stay on top of these changing regulations and make sure that they are practicing legally, carriers and brokers are working hard to ensure that terms are updated to reflect all of the organization's agreed exposures.

Canadian regulatory evolution

In Canada pre-COVID-19, the individual provinces and territories each had their own set of regulations, most of which required that

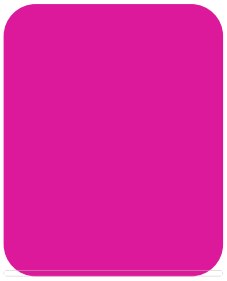
practitioner and patient be based in the same province. Unlike the US, Canada has no federal body regulating the care of patients, so when COVID-19 hit, there was no federal means to amend these regulations for the provision of emergency services. As a result, each individual province made the decisions on their own. Right out of the gate, many changed their guidelines to allow physicians to provide virtual consultation outside of their province, and in some cases, reciprocity was granted.

Overlaying these province-by-province regulations were guidelines from the Canadian Medical Protective Association (CMPA), the national entity through which Canadian doctors get individual insurance. The CMPA's guidelines about what they will cover when it comes to virtual care also evolved during COVID-19, most recently to indicate that virtual care encounters are covered under the CMPA when the patient and provider are both Canadian residents with an established doctor-patient relationship, regardless of whether both are in the same province at the time of service.

Today, there are a patchwork of province-by-province guidelines when it comes to providing virtual care to patients in a jurisdiction other than the territory where the practitioner is licensed. Many stakeholders, including physicians, patients, and even the Competition Bureau of Canada, are now calling for uniformity, however, raising a strong possibility that these guidelines may change yet again. Much like their American counterparts, Canadian brokers and their telehealth clients are well-advised to keep a close eye on shifting regulations.

Looking ahead

COVID-19 truly propelled change in the landscape for telemedicine, especially from an insurance perspective. Three years later, the public health emergency may be over, but its impact continues to be felt in the ways that virtual healthcare services are provided and the regulations that guide these practices. As the field of virtual health continues to evolve, we will be watching closely, preparing to advise brokers and insureds about how best to navigate risk in this shifting market.



Marc Martin

Product Leader - Global Virtual Care

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