CLE - Telemedicine Today – Legislative Trends, Industry Insight, and Provider Considerations
Wednesday, September 26th, 2018; 3:00 p.m. – 5:00 p.m.
Boston Bar Association – 16 Beacon Street, Boston MA

AGENDA

<table>
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<th>Time</th>
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| 3:00 – 3:05 p.m. | Welcome and Introduction  
Jeremy Sherer  
Hooper, Lundy & Bookman |
| 3:05 – 3:45 p.m. | Panel 1: Venture Capital, Startups, and Growth of Telemedicine  
Bradford Gay  
American Well Corporation  
Sarah Soisson  
Flare Capital Partners  
Rene Quashie  
Consumer Technology Association |
| 3:45 – 4:50 p.m. | Panel 2: Legislative Developments  
Michael Cannela  
Massachusetts State House  
Andrew Solomon  
Northeast Telehealth Resource Center  
Anne Murphy  
Hinkley Allen |
| 4:25 – 5:05 p.m. | Panel 3: The Provider Experience  
Megan McGovern  
Nixon Peabody LLP  
Christine Worthen  
Eastern Maine Healthcare System  
Heather Meyers  
Boston Children’s Hospital |
| 5:05 – 6:00 p.m. | Networking Reception |
SECTION 53. Said chapter 32A is hereby further amended by adding the following 2 sections:-

Section 29. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for diagnosis, consultation and treatment of a patient's physical, oral or mental health; provided however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

(b) Coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission shall provide coverage for health care services through the use of telemedicine by a contracted health care provider if (i) the health care services are covered by way of in-person consultation or delivery and (ii) the health care services may be appropriately provided through the use of telemedicine.

(c) Coverage for telemedicine services may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service; provided that, the same process is utilized as if the service was provided via in-person consultation or delivery.

(d) Coverage for telemedicine services shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.

(e) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services to set the global payment amount.
(f) Coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

(g) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(h) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 72. Chapter 112 of the General Laws is hereby amended by inserting after section 5N the following section:

Section 5O. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for diagnosis, consultation and treatment of a patient's physical, oral or mental health; provided however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

(b) Notwithstanding any other provision of this chapter, the board shall allow a physician licensed by the board to obtain proxy credentialing and privileging for telemedicine services with other health care providers, as defined in section 1 of chapter 111, or facilities consistent with Medicare conditions of participation telemedicine standards.
(c) The board shall promulgate regulations regarding the appropriate use of telemedicine to provide health care services. These regulations shall provide for and include, but shall not be limited to: (i) prescribing medications; (ii) services that are not appropriate to provide through telemedicine; (iii) establishing a patient-provider relationship; (iv) consumer protections; and (v) ensuring that services comply with appropriate standards of care.

SECTION 77. Said chapter 118E is hereby further amended by adding the following 3 sections:-

Section 79. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for diagnosis, consultation and treatment of a patient's physical, oral or mental health; provided however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

(b) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan may provide coverage for health care services through the use of telemedicine by a contracted health care provider if (i) the health care services are covered by way of in-person consultation or delivery and (ii) the health care services may be appropriately provided through the use of telemedicine.

(c) Coverage for telemedicine services may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the same process is utilized as if the service was provided via in-person consultation or delivery.

(d) Coverage for telemedicine services shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.
(e) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services to set the global payment amount.

(f) Coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

(g) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(h) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

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SECTION 78. Section 47BB of chapter 175 of the General Laws is hereby repealed.

[Section 47BB. (a) For the purposes of this section, "telemedicine" as it pertains to the delivery of health care services, shall mean the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment. "Telemedicine" shall not include the use of audio-only telephone, facsimile machine or e-mail.

(b) An insurer may limit coverage of telemedicine services to those health care providers in a telemedicine network approved by the insurer.

(c) A contract that provides coverage for services under this section may contain a provision for a deductible, copayment or coinsurance requirement for a health care service
provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation.

(d) Coverage for health care services under this section shall be consistent with coverage for health care services provided through in-person consultation.

SECTION 79. Said chapter 175 is hereby further amended by inserting after section 47II the following section:-

Section 47JJ. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for diagnosis, consultation and treatment of a patient's physical, oral or mental health; provided however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

(b) An individual policy of accident and sickness insurance issued under section 108 that provides hospital expense and surgical expense insurance and any group blanket or general policy of accident and sickness insurance issued under section 110 that provides hospital expense and surgical expense insurance which is issued or renewed within or without the commonwealth, shall not decline to provide coverage for health care services solely on the basis that those services were delivered through the use of telemedicine by a contracted health care provider if (i) the health care services are covered by way of in-person consultation or delivery and (ii) the health care services may be appropriately provided through the use of telemedicine.

(c) Coverage for telemedicine services may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the same process is utilized as if the service was provided via in-person consultation or delivery.
(d) Coverage for telemedicine services shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.

(e) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services to set the global payment amount.

(f) Coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

(g) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(h) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 82. Chapter 176A of the General Laws is hereby amended by adding the following 3 sections:-

Section 38. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for diagnosis, consultation and treatment of a patient's physical, oral or mental health; provided however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.
(b) A contract between a subscriber and a nonprofit hospital service corporation under an individual or group hospital service plan shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider if (i) the health care services are covered by way of in-person consultation or delivery and (ii) the health care services may be appropriately provided through the use of telemedicine.

(c) Coverage for telemedicine services may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the same process is utilized as if the service was provided via in-person consultation or delivery.

(d) Coverage for telemedicine services shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.

(e) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services to set the global payment amount.

(f) Coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.
(g) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(h) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

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SECTION 84. Said chapter 176B is hereby amended by adding the following 3 sections:-

Section 25. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for diagnosis, consultation and treatment of a patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

(b) A contract between a subscriber and a medical service corporation shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider if (i) the health care services are covered by way of in-person consultation or delivery and (ii) the health care services may be appropriately provided through the use of telemedicine.

(c) Coverage for telemedicine services may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the same process is utilized as if the service was provided via in-person consultation or delivery.
(d) Coverage for telemedicine services shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.

(e) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services to set the global payment amount.

(f) Coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

(g) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(h) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 87. Said chapter 176G is hereby further amended by adding the following 3 sections:-

Section 33. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for diagnosis, consultation and treatment of a patient's physical, oral or mental health; provided however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.
(b) A contract between a member and a health maintenance organization shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider if (i) the health care services are covered by way of in-person consultation or delivery and (ii) the health care services may be appropriately provided through the use of telemedicine.

(c) Coverage for telemedicine services may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service; provided that the same process is utilized as if the service was provided via in-person consultation or delivery.

(d) Coverage for telemedicine services shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.

(e) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services to set the global payment amount.

(f) Coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

(g) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.
(h) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

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SECTION 89. Said chapter 176I is hereby further amended by adding the following 2 sections:-

Section 13. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for diagnosis, consultation and treatment of a patient's physical, oral or mental health; provided however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

(b) A preferred provider arrangement shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telemedicine.

(c) Coverage for telemedicine services may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the same process is utilized as if the service was provided via in-person consultation or delivery.

(d) Coverage for telemedicine services shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.
(e) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services to set the global payment amount.

(f) Coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

(g) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(h) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

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SECTION 53. Said chapter 32A is hereby further amended by adding the following 3 sections:-

Section 29. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) Coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission shall provide coverage for health care services through the use of telemedicine by a contracted health care provider if the health care services are covered by way of in-person consultation or delivery. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided via in-person consultation or delivery.

(c) Coverage may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.

A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

Coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

(d) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services to set the global payment amount.
(e) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 91. Section 2 of chapter 112 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding the following 3 paragraphs:-

For the purposes of this section, “telemedicine” shall mean the use of audio, video or other electronic media for a diagnosis, consultation or treatment of a patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

Notwithstanding any other provision of this chapter, the board shall allow a physician to obtain proxy credentialing and privileging for telemedicine services with other health care providers, as defined in section 1 of chapter 111, or facilities consistent with Medicare conditions of participation telemedicine standards.

The board shall promulgate regulations regarding the appropriate use of telemedicine to provide health care services. These regulations shall provide for and include, but shall not be limited to: (i) prescribing medications; (ii) services that are not appropriate to provide through telemedicine; (iii) establishing a patient-provider relationship; (iv) consumer protections; and (v) ensuring that services comply with appropriate standards of care.

SECTION 113. Said chapter 118E is hereby further amended by adding the following 4 sections:-

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Section 80. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient’s physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract
to a Medicaid managed care organization or primary care clinician plan may provide coverage for health care services appropriately provided through telemedicine by a contracted provider.

(c) The division may undertake utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service; provided, however, that determinations shall be made in the same manner as if service was delivered in person. The division, a contracted health insurer, health plan, health maintenance organization, behavioral health management firm or third party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.

A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(d) A contract that provides coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(e) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 116. Section 47BB of said chapter 175 is hereby repealed.

[Section 47BB. (a) For the purposes of this section, “telemedicine” as it pertains to the delivery of health care services, shall mean the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation or treatment. "Telemedicine" shall not include the use of audio-only telephone, facsimile machine or e-mail.]
(b) An insurer may limit coverage of telemedicine services to those health care providers in a telemedicine network approved by the insurer.

(c) A contract that provides coverage for services under this section may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation.

(d) Coverage for health care services under this section shall be consistent with coverage for health care services provided through in-person consultation.

SECTION 117. Said chapter 175 is hereby further amended by inserting after section 47BB the following section:-

Section 47CC. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) An individual policy of accident and sickness insurance issued under section 108 that provides hospital expense and surgical expense insurance and any group blanket or general policy of accident and sickness insurance issued under section 110 that provides hospital expense and surgical expense insurance which is issued or renewed within or without the commonwealth, shall not decline to provide coverage for health care services solely on the basis that those services were delivered through the use of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) Coverage may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service; provided, however, that the determinations shall be made in the same manner as if the service was delivered in person. A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, shall not be required to reimburse a health care
A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

A contract that provides coverage for telemedicine services may include a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

(d) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(e) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 122. Said chapter 176A is hereby further amended by adding the following 3 sections:

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Section 39. (a) For purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient’s physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) A contract between a subscriber and a nonprofit hospital service corporation under an individual or group hospital service plan shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be
covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) Coverage may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determinations shall be made as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.

Coverage for telemedicine services may include a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(d) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(e) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 124. Said chapter 176B is hereby further amended by adding the following 3 sections:-

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Section 26. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient’s physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.
SENATE TELEMEDICINE SECTIONS – S.2211/S.2573

(b) A contract between a subscriber and a medical service corporation shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) Coverage may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determinations shall be made as if the service was delivered in person. A carrier is not required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan. Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount. A contract that provides coverage for telemedicine services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services.

(d) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(e) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 127. Said chapter 176G is hereby further amended by adding the following 3 sections:-

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Section 34. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a
patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) A contract between a member and a health maintenance organization shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) A carrier may undertake utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determinations shall be made as if the service was delivered in person. A carrier is not required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan. A contract that provides coverage for telemedicine services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(d) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(e) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

SECTION 128. Chapter 176I of the General Laws is hereby amended by adding the following 2 sections:

Section 13. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a
patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) A preferred provider contract between a covered person and an organization shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) An organization may undertake utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person. An organization is not required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider not contracted under the plan.

A preferred provider contract that provides coverage for telemedicine services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(d) A health care provider shall not be required to document a barrier to an in-person visit, nor shall the type of setting where telemedicine is provided be limited for health care services provided through telemedicine.

(e) Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

……
SECTION 149. Notwithstanding any general or special law to the contrary, the department of public health and the office of consumer affairs and business regulation shall allow licensees to obtain proxy credentialing and privileging for telemedicine services with other health care providers as defined in section 1 of chapter 111 of the General Laws or facilities that comply with the Centers for Medicare & Medicaid Services’ conditions of participation for telemedicine services.

For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for the purposes of a diagnosis, consultation or treatment of a patient’s physical, oral or mental health; provided, however, that “telemedicine” shall not include an audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.
Venture Capital, Startups and the Growth of Telemedicine

Boston Bar Association CLE, “Telemedicine Today”
September 26, 2018

Panelists
Brad Gay, Esq., American Well
Rene Quashie, Esq., Consumer Technology Association
Sarah Sossong, MPH, FACHE, Flare Capital Partners

Moderator
Jeremy Sherer, Esq., Hooper, Lundy & Bookman, PC
Overview

1. Venture Capital and the Digital Health Industry
2. From Start-up to Established
3. Telemedicine’s Staying Power
• Telehealth vs. telemedicine vs. digital health

• Telemedicine Modalities
  ➢ Live, synchronous, audio-video communication
  ➢ Remote Patient Monitoring
  ➢ “Store and Forward” Communication
  ➢ Artificial Intelligence
VENTURE CAPITAL AND DIGITAL HEALTH

An influx of private investment in digital health technology has catalyzed game-changing advances in the delivery of health care. What is it that has attracted venture capital firms to digital health and telemedicine, and where are their current interests?
As telemedicine technologies have improved and utilization has increased, telemedicine technology and platforms have quickly become an important element of health care operations, and companies providing telemedicine services have grown dramatically. How has this growth challenged telemedicine services providers, and how have perspectives on telemedicine changed?
TELEMEDICINE’S STAYING POWER

Telemedicine – and, more broadly, digital health – is among the “hottest” topics in health care today. Are we really witnessing a transformation in health care delivery, or is this just a trend?
Thank you!

Questions?

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TELEMEDICINE POLICY IN MASSACHUSETTS

Michael Cannella, Esq.
Legislative Director and Counsel
Office of Senator James T. Welch

Nothing in the foregoing presentation is presented as legal advice, and the contents of the presentation and any oral remarks represent my views and not those of Senator Welch or the Massachusetts Senate.
Chapter 224 of the Acts of 2012

Senate HEALTH Act (Nov. 9, 2017)

Joint Committee on Health Care Financing Redraft for the 2015-2016 Legislative Session (H.442)

Conference Committee Negotiations (June 25 – July 31, 2018)

House PVK Act (June 19, 2018)
Resolving the Differences Between Nearly Identical Proposals

Substantial Similarities
- No payment parity
- No hard Medicaid mandate – Section 113 Senate/Section 77 House
- No asynchronous methodologies – (a)’s throughout
- APM payment model incorporation – (e)’s throughout
- OOP parity (c) Par.2 Senate and (f) House

Key Differences
- Coverage Parity Language - comparison of (b)’s throughout
- UR/PA language – comparison of (c)’s throughout
- Proxy Credentialing Directives – Section 91 Senate/Section 72 House (Physicians); Section 149 Senate (Other Licesensed Medical Practitioners)
A Brief Overview of Northeast Telehealth Trends

September 26, 2018

Andrew Solomon, MPH
Project Manager
Northeast Telehealth Resource Center
asolomon@mcdph.org
In the Northeast, Telehealth Gets Creative With Good Results

mHealth Intelligence, Oct 2016

2018 Northeast Bills by Topic

Includes bills for New England, New York, and New Jersey as of August 15, 2018

Federal Policy Regarding Telemedicine Services

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Medicare

➢ Original Medicare is restrictive:

▪ Rural location of originating site
▪ Originating site cannot be patient’s home
▪ Must be synchronous video (no store and forward)
▪ Specific services updated annually

➢ Expanded Medicare Coverage Via Bipartisan Budget Act of 2018

▪ Eliminates rural restriction for telestroke services; CMS has proposed adding “mobile stroke units” as originating sites (2019)
▪ Permits ESRD patients to receive certain services via telehealth; CMS has proposed allowing patient home to be an originating site (but no facility fee) (2019)
Medicare Advantage Plans will be allowed to include telehealth services in basic benefits; listed of covered services not yet issued (2020)

Certain ACOs will be able to use patient home as originating site (no facility fee) and will not be subject to the rural restriction (2020); Selected ACOs and bundled payment programs currently benefit from telehealth waivers
Other Federal Policy Considerations

- Opioid Crisis Response Act of 2018 – would require AG to promulgate rules specifying circumstances in which DEA will allow qualified providers to prescribe controlled substances via telemedicine under the Ryan Haight Act.
- CMS gives State broad latitude to implement telehealth policies
  - Almost all states reimburse for live video
  - 20+ states reimburse for remote patient monitoring
  - 15 states reimburse for store and forward
- Consider also extensive use of telehealth by the military and the VA; role of FCC, FDA and FTC
The Provider Experience

Boston Bar Association CLE, “Telemedicine Today”
September 26, 2018

Panelists
Heather Meyers, MBA, Boston Children’s Hospital
Christine B. Worthen, Esq., Eastern Maine Healthcare System

Moderator
Megan A. McGovern, Esq., Nixon Peabody LLP
I. Introductions

II. Current Telemedicine Offerings
Live Video
“synchronous”
Virtual Visit
Video visit with a provider
Virtual Education
Video educational consult with a provider
Virtual Consults
Video consult with a provider + patient
Connected Devices
Remote monitoring and transmitting patient health information
For Patients
With providers
For Providers
With providers
Online Request
“asynchronous”
e-Visits
Online visit with a provider
2nd Opinions
Online opinion from a provider
e-Consults
Online consult with a provider about a patient
Future offering
Current offering

Educational sessions may not discuss patient specific information. They may only cover the diagnosis/treatment plan broadly.
III. Patient Population
• Adult v. Pediatric Patients

IV. Practice Location
• Rural v. Non-Rural

V. Patient and Provider Engagement
• Patient Preferences
• Challenges
VI. Operations, Legal and Regulatory Considerations

• Contracting Challenges
• Legal and Regulatory Considerations
• Compliance Considerations

VII. Success Stories

• Cost and Time Savings

VIII. Planning for the Future
Thank you!

Questions?

Megan A. McGovern
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(617) 345-1179
Brad Gay has been Senior Vice President and General Counsel at American Well since 2013, where he is responsible for the Company's legal & regulatory affairs. Prior to joining American Well, Brad was a member of the legal team at Dell EMC. At Dell EMC, Brad managed an international legal team dedicated to supporting a business unit with annual revenues of approximately $1 billion. In that position, Brad also managed a team of risk and compliance professionals tasked with ensuring the business unit’s regulatory compliance. While at EMC, Brad also held roles supporting the corporate development team on mergers & acquisitions, equity investments, technology transfers and other strategic licensing and go-to-market partnerships. Earlier in his career, Brad worked as a corporate transactional attorney at the international law firm Bingham McCutchen. Brad is a graduate of Duke University School of Law and Middlebury College.

René Quashie is the first-ever Vice President of Policy & Regulatory Affairs of Digital Health at the Consumer Technology Association. Quashie provides guidance on key technical and regulatory issues relating to consumer digital health and wellness technology products, services, software and apps. Quashie also works on behalf of CTA’s Health and Fitness Technology Division, which supports the consumer health technology industry through education, research, standards work, policy initiatives and more. The division's industry-consensus accomplishments include the creation of CTA's Guiding Principles on the Privacy and Security of Personal Wellness Data, addressing how companies should treat consumers' personal wellness data. CTA works closely with the Food and Drug Administration, the Centers for Medicare and Medicaid Services, the Office of the National Coordinator and other related government agencies. Quashie previously was in private law practice with Epstein Becker Green and Cozen O'Connor. Rene is a graduate of the George Washington University Law School.

Sarah Sossong is a principal at Flare Capital Partners, a leading healthcare technology venture capital firm based in Boston. She began her career in San Francisco at Kaiser Permanente, designing and scaling their first enterprise telemedicine program in TeleDermatology, before moving to Mass General Hospital and launching its Center for Telehealth, through which she brought a comprehensive suite of telehealth services from Mass General clinicians to market, ranging from Remote Second Opinions to Urgent Care, which have now touched over 30,000 patients. Sarah mentors digital health startups, presents and writes on telehealth regularly, and participates in national committees and boards to advance the adoption of telehealth. She was named one of the "influential women reshaping health IT" in March 2018 by Fierce Health. She holds a master's degree in health policy and management from the University of California at Berkeley and is a graduate of Princeton University.

ANDREW SOLOMON, MPH is the Project Manager for the federally funded Northeast Telehealth Resource Center, a member of the National Consortium of Telehealth Resource Centers. While assisting organizations in developing, implementing, and expanding telehealth programs, he researches and tracks telehealth reimbursement policies, legal and regulatory issues, model programs, telehealth technology, and other topics. Mr. Solomon holds a Master of Public Health from Boston University.

Heather M. Meyers, MBA is the Senior Program Manager of Digital Health at Boston Children's Hospital, where she brings extensive Digital Health experience and knowledge to the Innovation and Digital Health Accelerator (IDHA) team. She oversees the Telehealth programs as well as the digital health
business operations and regulatory priorities at Boston Children’s. She is also responsible for aligning the billing models, reimbursement policies and compliance regulations into the digital health models while optimizing the patient and provider experience.

Prior to joining Boston Children’s Hospital, Heather was the Telemedicine Project Manager at Vanderbilt University Medical Center where she was able to fully develop and operationalize a Telehealth Department that included hospital-to-hospital, remote virtual clinics and direct-to-consumer programs. Heather began her healthcare career at UPMC in Pittsburgh, PA in the Telehealth Program where she gained her foundational knowledge of the Telehealth industry and helped scale out the Telemedicine programs extended from the UPMC Enterprise.

Heather earned her MBA from Seton Hill University with a specialization in management and her BS from University of Pittsburgh.

**Anne M. Murphy**—Anne is a Partner in the Health Care Practice at Hinkley Allen, LLP. With three decades of experience, Anne’s health law practice focuses on the representation of health care systems, academic medical centers, large physician organizations, ACOs, portfolio companies, and other health care service organizations. She acts as a trusted advisor for mergers and acquisitions, corporate restructurings and significant health care entity formation projects. Additionally, Anne counsels clients on joint ventures, telemedicine, intellectual property, clinical and bench research, technology transfer and development, insurance coverages, health information and technology, cyberliability and cybersecurity. Anne serves on the board of the Educational Commission for Foreign Medical Graduates and on the Executive Council for Policy and Management of the T.H. Chan Harvard School of Public Health.

**Christine Worthen** provides legal and strategic guidance on managed care and value based contracting across all service lines at Eastern Maine Healthcare Systems. She leads all managed care contract negotiations and oversees the managed care contracting department. She guides on compliance with payor contracts and ensures a strong link with the revenue cycle department. She provides legal counsel on reimbursement matters, telehealth, as well as privacy and security matters related to data integration for value based reimbursement models. Prior to assuming her latest role, she was Chair of the Healthcare Services Practice Group at Pierce Atwood in Portland, ME and Boston, MA where she guided health care organizations on managed care contracting, accountable care organizations, risk based contracting, network design, telemedicine, health privacy and security laws, (including HIPAA), and the 340b federal drug pricing program. She provided counsel to health care organizations that participate in the Medicare Shared Savings Program, the Pioneer ACO Program, the Next Generation ACO Model, and risk arrangements with commercial payors. She also provided counsel to independent physician practices facing changing reimbursement models. She provided counsel to healthcare organizations in the design and implementation of telemedicine programs and guided on compliance with the various state and federal laws that impact telemedicine such as state licensure, scope of practice, reimbursement, privacy and security, fraud and abuse, and contracting. She also served as Associate General Counsel for Eastern Maine Healthcare Systems and practiced with Nelson Mullins Broad and Cassel prior to joining Pierce Atwood. She began her career with Grant Thornton in Boston, MA. She holds an L.L.M in Taxation from Boston University School of Law, a J.D. from New England Law, and received her B.A., cum laude, from Boston University.
MICHAEL EVAN CANNELLA is the Legislative Director and Counsel to Massachusetts State Senator James T. Welch, Chairman of the Joint Committee on Health Care Financing. Michael reviews and advises the Senator on healthcare legislation before the Committee and on other developments in state and federal healthcare policy. Michael is admitted to practice law in Massachusetts after graduating cum laude from Boston University Law School in 2014. He also received his MPH from Boston University School of Public Health in 2015 after serving as the Health Law and Bioethics Fellow. Upon completion of his MPH Michael was inducted into the Upsilon Phi Delta National Honor Society and was a recipient of the 2015 Allan R. Meyers Memorial Award for Excellence in Health Services. When not working on behalf of Senator Welch, Michael enjoys volunteering his time and skills. He serves as a community member on an Institutional Review Board at Brigham and Women’s Hospital, and is a non-faculty adviser to the Health Policy and Law certificate program at Boston University School of Public Health.