

# OUR PRACTICE

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## Telehealth

**Telehealth is no longer the wave of the future of health care; it is the present. Our clients understand that and we assist them by providing legal guidance in an ever-changing statutory and regulatory environment.**

Through electronic connectivity, mobile technologies, equipment and/or all of the above, telehealth brings needed health care services to geographic areas and the patients within them. It connects patients with highly-trained specialists that may otherwise be too far away for the patient to visit. Telehealth enables provider training to physicians in underserved areas across the country and even the world. Telehealth is way more than telemedicine; it is a vast myriad of health care services, licensed and unlicensed, that can be and are offered through telehealth modalities.

Our clients are providers, large and small, established and start-up. They are venture capitalists, telehealth service entities and software companies.

We assist our clients in creating telehealth service arrangements, forming telehealth entities (both provider and non-provider), reviewing software and licensing agreements and providing general advice as to the viability of a particular telehealth arrangement within the applicable state statutory and regulatory construct.

Telehealth arrangements raise the same legal issues as traditional in-person health care arrangements. These include professional licensure, Stark and anti-kickback compliance, reimbursement, state corporate practice considerations, and HIPAA privacy and security regulation. Despite the parallels and similarities, many states impose additional restrictions on telehealth in the form of practice restrictions, special licensure or requirements for e-prescribing. Furthermore, it is often the case that telehealth technologies outpace regulatory developments. Simply put, the regulations do not reflect the current status of the industry and in many ways stifle it, particularly when it comes to reimbursement. To date, Medicare and Medicaid reimbursement for telehealth services is limited, though commercial payor parity is becoming more common. We keep clients informed about legal developments in their home states and in the states where they provide services.

Telehealth is a hot and fast-paced industry operating within ever-changing legal parameters. In this type of environment, stakeholders need advisors, like ours, who have their fingers on the pulse of the industry and provide the most up-to-date guidance.

## Representative Matters

*Results may vary depending on your particular facts and legal circumstances.*

- Assisted national health system in the development and implementation of a telepsych network for facilities in numerous states. Also addressed physician state licensing issues, reimbursement issues, and regulatory compliance issues.
- Assisted crisis prevention provider with requirements for complying with telehealth state laws in various states, including government reimbursement and HIPAA issues to address privacy of individual's information.
- Assisted academic medical center with preparing service agreements with rural and community hospitals to provide telestroke services and related equipment and software, including access to EMR, in addition to analyzing fraud and abuse, credentialing, tax-exempt and HIPAA issues.

- Assisted for-profit health system in evaluating the use of telemedicine for in-patient admissions and compliance with conditions of participation for Medicare.
- Assisted AN academic medical center in evaluating state regulatory requirements for expansion of telemedicine services outside of its traditional geographic service area. Also filed necessary waivers/variances with state administrative boards to facilitate the expansion.
- Assisted telehealth start-up company with organization, physician contracts, medical director agreements and hospital agreements to provide telepsyche and telestroke services to hospitals around the country. Also addressed physician state licensing issues, foreign corporation registration issues, credentialing, insurance and HIPAA.
- Assisted start-up companies with state law compliance as to what constitutes telehealth and whether a hospital's services to patients in long term care hospitals constitutes telehealth and are reimbursable by Medicare and various state Medicaid programs.
- Assisted clients with Medicare and Medicaid payor limitations regarding reimbursement for physician services. Analyzed options for joint ventures for telehealth services between skilled nursing facilities and hospitals to comply with fraud and abuse laws.
- Assisted large health system in preparing service and licensing agreements for large geographic scope direct to consumer offering.
- Assisted telehealth start-up companies with preparing intake and consent forms required under the applicable licensing statutes.