Telehealth Implications for Clinicians

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Amber Humphrey, MBA
Sr. Director, VUMC Telehealth

Today's Discussion

- Federal telehealth regulatory landscape
- Practicing and prescribing across state lines
- Video visits, asynchronous care, and remote patient monitoring

Federal Landscape: What We Know Right Now

- When the Public Health Emergency officially ended in May 2023, CMS's telehealth flexibilities were extended through December 31, 2024.
- Extension included home as a qualified site for telehealth (i.e., direct-to-patient telehealth), therapists' ability to provide telehealth, several new codes allowable via telehealth, etc.
- The **Telehealth Modernization Act of 2024** is being proposed by Congress to extend telehealth flexibilities through December 31, 2026.
- Legislative experts across the country are optimistic that a bill pass, but unsure what changes will be made before it becomes law.

When Will We Know More?

Timing

- Legislative experts don't expect Congress to take action on this bill until after the presidential election.
- We will know more at the end of November.

Key Takeaways

- We remain confident that **Medicare and other payors** will cover direct-to-patient telehealth visits scheduled after January 1, 2025.
- VUMC does not anticipate significant coverage changes from commercial payors.

Prescribing Controlled Substances

Background

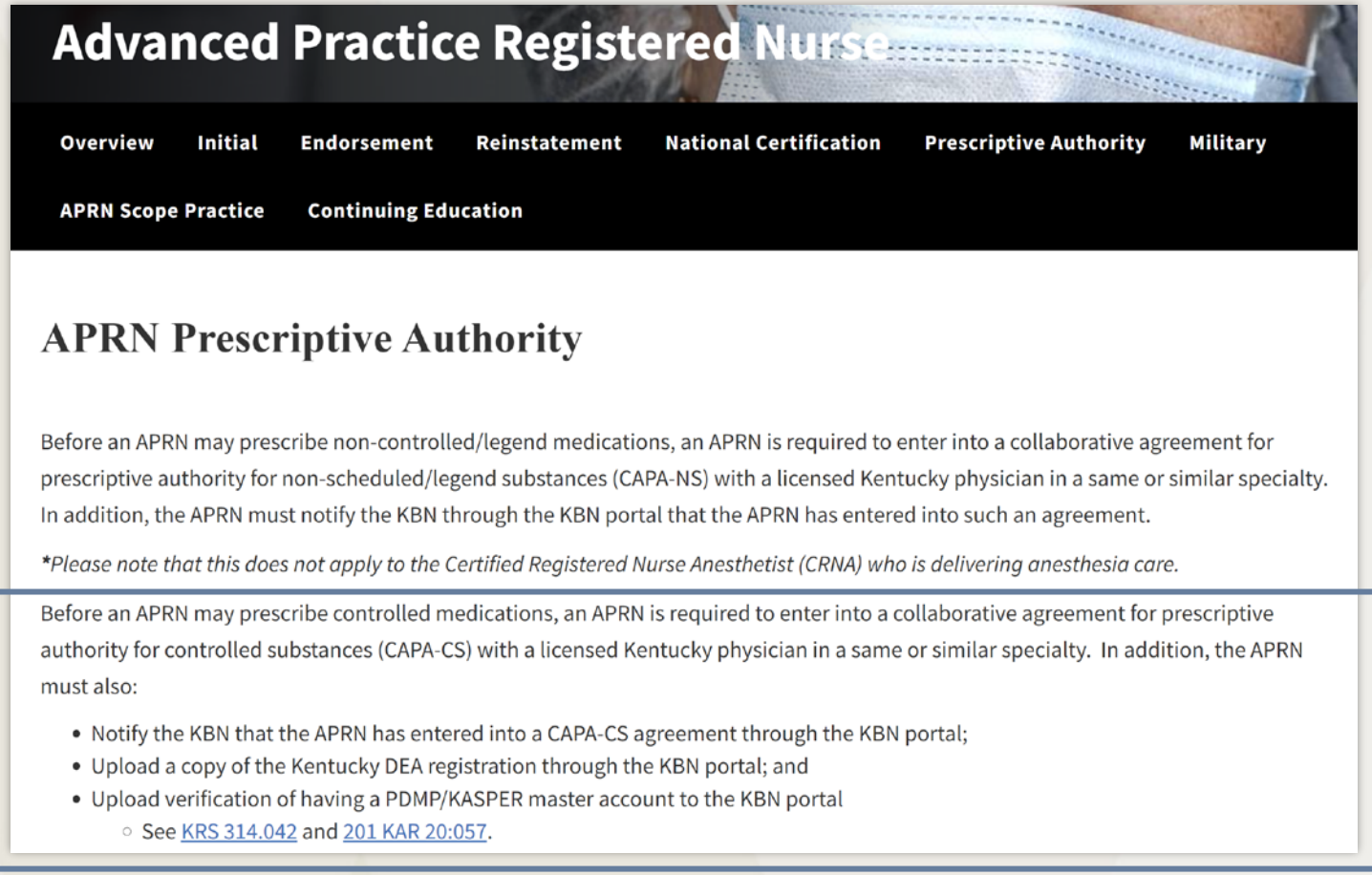
- Prior to the pandemic, state-specific DEAs were required for prescribing controlled substances.
- During the pandemic, the federal DEA waived state requirements:
    - *DEA-registered practitioners are not required to obtain additional registration(s) with DEA in the additional state(s) where the dispensing (including prescribing and administering) occurs, for the duration of the public health emergency declared on January 31, 2020, if authorized to dispense controlled substances by both the state in which a practitioner is registered with DEA and the state in which the dispensing occurs. Practitioners, in other words, must be registered with DEA in at least one state and have permission under state law to practice using controlled substances in the state where the dispensing occurs.*
- When the pandemic ended in May 2023, the federal DEA waiver was extended through December 31, 2024.

Current Guidance

- Controlled substance prescribing (**except for chronic non-malignant pain meds**) via telehealth may continue for new and established patients until December 31, 2024.
- For chronic non-malignant pain medications (controlled substances only), there is a separate state TN policy limiting prescribing from telehealth.
- We expect the DEA to issue an additional extension.

Exception: Kentucky

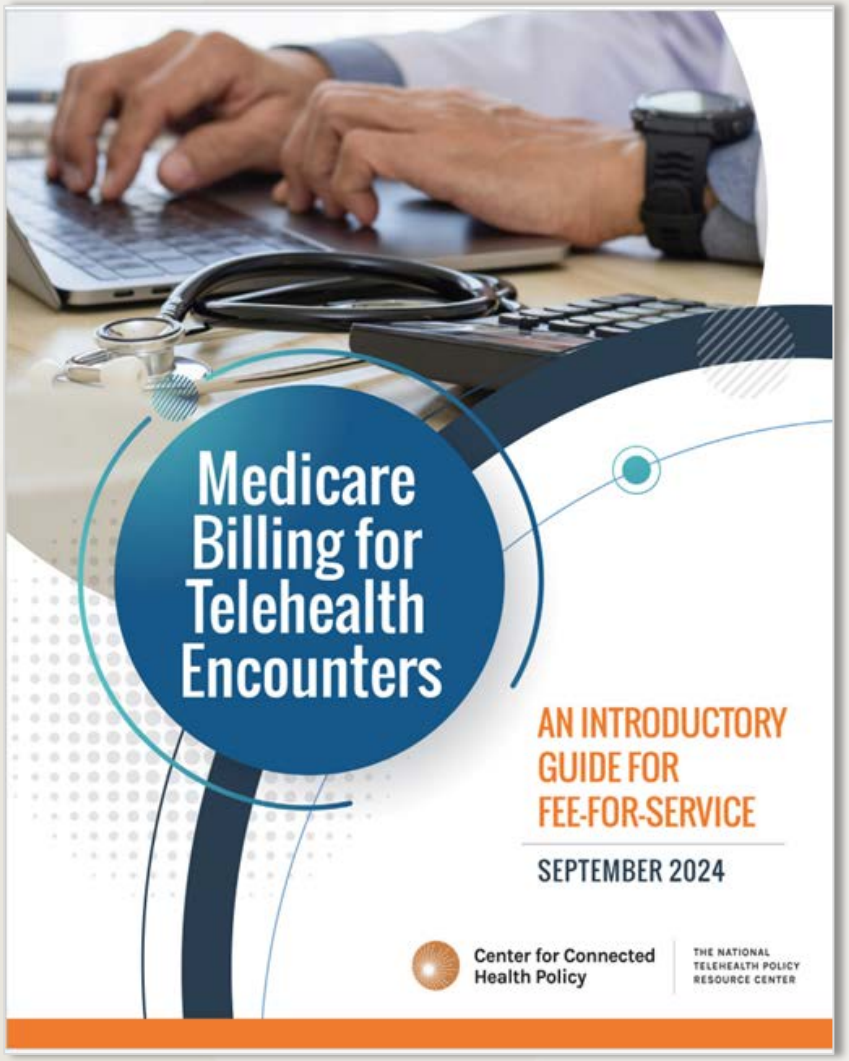
- Despite the federal waiver extension, Kentucky's statute includes language requiring KY DEA registration for APRNs.
- APRNs conducting telehealth services to patients in the state of KY should be required to obtain KY DEA Registration for:
  - New KY license requests and all KY license renewal requests *AND*
  - Write controlled substances as a part of your telehealth practice



https://kbn.ky.gov/advanced-practice-registered-nurse/Pages/prescriptive-authority.aspx

Telehealth Services

Video Visits, Asynchronous Care, and Remote Patient Monitoring



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Video Visits

Licensure

- Clinician must be licensed where the patient is located during the visit.

Technology

- Audio-video platform must be HIPAA-compliant. “Off-the-shelf” platforms are not longer permitted.

Consent

- In non-emergent situations, patients must be given the option for telehealth or in-person. VUMC requires written consent for each telehealth visit to comply with neighboring state laws.

Documentation

- Clinicians must document patient’s consent, patient’s location (include state), and clinician’s location in their note.

Reimbursement

- Tennessee is a “parity” state; commercial and TennCare payors operating in TN must reimburse telehealth at the same rate as in-person services.

eConsult

eConsult/Interprofessional Consultation*

- Provider-to-provider based, as opposed to provider-to-patient. The patient also must consent each time a provider-to-provider service is contemplated, to try and prevent a billing surprise for patients. The idea is also to cut down on specialist referrals to maintain access for patients with more acute conditions.

Billing Codes*

- 99451: Interprofessional telephone/Internet/electronic health record assessment and management service provided by a consultative physician, including a written report to the patient's treating/requesting physician or other qualified health care professional, 5 minutes or more of medical consultative time.
- 99452: Interprofessional telephone/Internet/electronic health record referral service(s) provided by a treating/requesting physician or other qualified health care professional, 30 minutes.
- 99446-99449: "Interprofessional telephone/Internet/electronic health record assessment and management service provided by a consultative physician, including a verbal and written report to the patient's treating/requesting physician or other qualified health care professional (5 minutes through and over 31 minutes)."

Licensure Flexibility in Some States

- Limited/occasional eConsults without a license: Alabama, Georgia, Kentucky, North Carolina, and Ohio
- No license needed for eConsult: Indiana, Mississippi, Missouri, Virginia, and Wisconsin

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eVisit: Billing for Medical Advice Messages

CMS Definition: non-face-to-face patient-initiated communications through an online patient portal.

Billing Criteria

- An established patient messages you in MHAV
- Patient located in a state in which you are licensed
- Time-based care
  - You provide virtual care for at least 5 minutes over 7 days
- Care includes Evaluation and Management
  - Cannot be simply responding to request for appointment, lab results, refills

Billing Codes*

- 99421/98970 - Qualified healthcare professional online assessment, for an established patient, for up to seven days, cumulative time during the 7 days; 5-10 minutes
- 99422/98971 - Qualified nonphysician healthcare professional online assessment service, for an established patient, for up to seven days, cumulative time during the 7 days; 11-20 minutes
- 99423/98972 - Qualified nonphysician qualified healthcare professional assessment service, for an established patient, for up to seven days, cumulative time during the 7 days; 21 or more minutes

*2024BillingGuide4FINAL.pdf (cchpca.org)

Remote Patient Monitoring

CMS also refers to this as remote physiological monitoring.

Billing Guidance*

- RPM may be done under general supervision and billed by staff under an NPI-holding practitioner.
- You must follow the incident-to rules for different types of practices.
- Uploading and transmission of data must be automated and cannot be billed if the data is entered manually.

Billing Codes*

- 99091: The clinician interprets medical information, such as ECG recordings, blood pressure records, and home glucose monitoring results, received in digital form from a patient or his caregiver requiring at least 30 minutes of the provider's time. A physician or other qualified healthcare professional may report this code once each 30–day period. (But not at the same time as any of the following CPT codes).
- 99453: Staff service: initial set up of device; bill after 16 days of monitoring.
- 99454: Staff or facility service: covers initial device payment; bill after 16 days of receipt of and monitoring readings, bill every 30 days.
- 99457: QHP service; 20 minutes of Non face to face and face to face time spent in analysis and via synchronous communication with patient the findings or care plan.
- 99458: Add-on code; full additional 20 minutes for services described in 99457

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Thank you!

Questions?
amber.Humphrey@vumc.org