1.2.12 Ethical Practice in Telemedicine

Innovation in technology, including information technology, is redefining how people perceive time and distance. It is reshaping how individuals interact with and relate to others, including when, where, and how patients and physicians engage with one another.

Telehealth and telemedicine span a continuum of technologies that offer new ways to deliver care. Yet as in any mode of care, patients need to be able to trust that physicians will place patient welfare above other interests, provide competent care, provide the information patients need to make well-considered decisions about care, respect patient privacy and confidentiality, and take steps to ensure continuity of care. Although physicians' fundamental ethical responsibilities do not change, the continuum of possible patient-physician interactions in telehealth/telemedicine give rise to differing levels of accountability for physicians.

All physicians who participate in telehealth/telemedicine have an ethical responsibility to uphold fundamental fiduciary obligations by disclosing any financial or other interests the physician has in the telehealth/telemedicine application or service and taking steps to manage or eliminate conflicts of interests. Whenever they provide health information, including health content for websites or mobile health applications, physicians must ensure that the information they provide or that is attributed to them is objective and accurate.

Similarly, all physicians who participate in telehealth/telemedicine must assure themselves that telemedicine services have appropriate protocols to prevent unauthorized access and to protect the security and integrity of patient information at the patient end of the electronic encounter, during transmission, and among all health care professionals and other personnel who participate in the telehealth/telemedicine service consistent with their individual roles.

Physicians who respond to individual health queries or provide personalized health advice electronically through a telehealth service in addition should:

(a) Inform users about the limitations of the relationship and services provided.

(b) Advise site users about how to arrange for needed care when follow-up care is indicated.

(c) Encourage users who have primary care physicians to inform their primary physicians about the online health consultation, even if in-person care is not immediately needed.

Physicians who provide clinical services through telehealth/telemedicine must uphold the standards of professionalism expected in in-person interactions, follow appropriate ethical guidelines of relevant specialty societies and adhere to applicable law governing the practice of telemedicine. In the context of telehealth/telemedicine they further should:

(d) Be proficient in the use of the relevant technologies and comfortable interacting with patients and/or surrogates electronically.

(e) Recognize the limitations of the relevant technologies and take appropriate steps to overcome those limitations. Physicians must ensure that they have the information they need to make well-grounded clinical recommendations when they cannot personally conduct a physical examination, such as by having another health care professional at the patient's site conduct the exam or obtaining vital information through remote technologies.

(f) Be prudent in carrying out a diagnostic evaluation or prescribing medication by:

   (i) establishing the patient's identity;

   (ii) confirming that telehealth/telemedicine services are appropriate for that patient's individual situation and medical needs;

   (iii) evaluating the indication, appropriateness and safety of any prescription in keeping with best practice guidelines and any formulary limitations that apply to the electronic interaction;

   (iv) documenting the clinical evaluation and prescription.

(g) When the physician would otherwise be expected to obtain informed consent, tailor the informed consent process to provide information patients (or their surrogates) need about the distinctive features of telehealth/telemedicine, in addition to information about medical issues and treatment options. Patients and surrogates should have a basic understanding of how telemedicine technologies will be used in care, the limitations of those technologies, the credentials of health care professionals involved, and what will be expected of patients for using these technologies.

(h) As in any patient-physician interaction, take steps to promote continuity of care, giving consideration to how information can be preserved and accessible for future episodes of care in keeping with patients' preferences (or the decisions of their surrogates) and how follow-up care can be provided when needed. Physicians should assure themselves how information will be conveyed to the patient's primary care physician when the patient has a primary care physician and to other physicians currently caring for the patient.

Collectively, through their professional organizations and health care institutions, physicians should:

(i) Support ongoing refinement of telehealth/telemedicine technologies, and the development and implementation of clinical and technical standards to ensure the safety and quality of care.

(j) Advocate for policies and initiatives to promote access to telehealth/telemedicine services for all patients who could benefit from receiving care electronically.

(k) Routinely monitor the telehealth/telemedicine landscape to:

   (i) identify and address adverse consequences as technologies and activities evolve;

   (ii) identify and encourage dissemination of both positive and negative outcomes.

AMA Principles of Medical Ethics: I,IV,VI,IX

Background report(s):

CEJA Report 1-A-16 Ethical practice in telemedicine

CEJA Report 4-I-14 Professionalism in telemedicine (informational)

CEJA Report 6-A-03 Use of health-related websites

REPORT 1 OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS (1-A-16)
Ethical Practice in Telemedicine
(Reference Committee on Amendments to Constitution and Bylaws)

EXECUTIVE SUMMARY

Telehealth and telemedicine span a continuum of technologies that offer new ways to deliver care. Yet as in any mode of care, patients need to be able to trust that physicians will place patient welfare above other interests, provide competent care, provide the information patients need to make well-considered decisions about care, respect patient privacy and confidentiality, and take steps to ensure continuity of care. Although physicians' fundamental ethical responsibilities do not change, the continuum of possible patient-physician interactions in telehealth/telemedicine give rise to differing levels of accountability for physicians.

All physicians who participate in telehealth/telemedicine have an ethical responsibility to uphold fundamental fiduciary obligations and to protect privacy and confidentiality.

Physicians who respond to individual health queries or provide personalized health advice should also inform users about the limitations of the site and service and encourage those who have primary care physicians to inform their primary care physicians about the online consultation.

Physicians who provide clinical services through telehealth/telemedicine must uphold the standards of professionalism expected in in-person interactions. They should further be proficient in using relevant technologies, recognize and take steps to overcome the limitations of telehealth/telemedicine technologies, and tailor the process of informed consent to address the distinctive features of telehealth/telemedicine. Physicians should be prudent in carrying out diagnostic evaluations or prescribing medications, including establishing the patient's identity, confirming that telehealth/telemedicine services are appropriate for the patient, and evaluating the indication, appropriateness, and safety of medications in keeping with best practice. Physicians should also take steps to promote continuity of care for patients who receive care electronically.

Through their professional organizations and institutions, physicians should support ongoing refinement of technologies and the development of clinical standards for telehealth/telemedicine. Physicians collectively should advocate for access to telehealth/telemedicine services for all patients who could benefit from receiving care electronically. Professional organizations and institutions should monitor telehealth/telemedicine to identify and address adverse consequences as technologies evolve and identify and encourage dissemination of positive outcomes.

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS*

CEJA Report 1-A-16

Subject:	Ethical Practice in Telemedicine
Presented by:	Stephen L. Brotherton, MD, Chair
Referred to:	Reference Committee on Amendments to Constitution and Bylaws (Jan Kief, MD, Chair)

1 Innovation in information technology is radically changing the ways in which humans live their
2 lives. It is redefining how people perceive time and distance, and is reshaping how they interact
3 with and relate to others. This includes reshaping the ways people engage with medicine. As the
4 public becomes increasingly fluent in utilizing novel technologies in all aspects of daily life,
5 evolving applications in health care are altering the contours of when, where, and how patients and
6 physicians engage with one another.
7
8 Prior to recent innovations in information technology, individuals who had a medical concern
9 either turned to hardcopy publications, made an appointment to see their physician, or spoke with
10 family or friends. Now, a growing number are going online to seek answers, and they can do so at
11 virtually any time from virtually anywhere [1]. New technologies are also allowing patients to
12 receive care remotely through telemedicine applications, which can offer opportunities for patients
13 who are homebound, who live in rural or underserved areas, or who face other impediments that
14 limit their access to care to overcome those obstacles. Likewise, new technologies are making it
15 possible for patients who have rare medical disorders to obtain care from distant specialists [2-4].
16 Even for patients who have access to care in person, many find telemedicine a welcome
17 convenience [5]. Given the strong consumer demand in all sectors for access and convenience,
18 patient interest in telemedicine is likely to grow.
19
20 Moreover, patients (or their surrogates) who wish to can maintain their own health records (or their
21 surrogates on their behalf)—and share them with physicians and others without the need for
22 geographic proximity—through online personal health records. Online patient communities [6]
23 build on the legacy of in-person "peer-to-peer" networks, such as Alcoholics Anonymous, that
24 have long offered information and support.
25
26 Yet while these innovations, and those yet to emerge, have significant potential to benefit patients,
27 they also raise challenges. In particular, concerns have been raised that exchanging health
28 information and providing care electronically could create new risks to quality, safety and
29 continuity of care and weaken the patient-physician relationship [4,7-10].

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* Reports of the Council on Ethical and Judicial Affairs are assigned to the Reference Committee on
Amendments to Constitution and Bylaws. They may be adopted, not adopted, or referred. A report may not
be amended, except to clarify the meaning of the report and only with the concurrence of the Council.

1   TELEHEALTH/TELEMEDICINE: NEW WAYS TO DELIVER HEALTH CARE
2

3   "Telehealth" and "telemedicine" represent a continuum of technologies and activities that offer
4   new ways to deliver care. Although the two are distinguished in current usage, the reasons for
5   doing so are largely administrative. The Health Resources and Services Administration defines
6   "telehealth" broadly as involving electronic and telecommunications technologies to "support long-
7   distance clinical health care, patient and professional health-related education, and public health
8   and administration" [11]. For purposes of reimbursement, the Centers for Medicare & Medicaid
9   Services defines "telemedicine" narrowly as activities involving "two-way, real time interactive
10   communication between the patient and the physician or practitioner at [a] distant site" [12].
11

12   In telehealth/telemedicine as in other modes of care, patient-physician interactions span a
13   continuum of interactions that give rise to differing levels of accountability for physicians. At one
14   end of the telehealth/telemedicine continuum are health-related online sites where any interaction
15   between an individual seeking health information and a physician who provides it is indirect and
16   the physician has broad obligations to all site users, but is not specifically accountable to any
17   individual information seeker. For example, on some sites, physician experts are responsible for
18   ensuring the accuracy and quality of content, but are not expected to be responsible for how
19   individuals act on the information they find on the site. The analogy is to seeking information from
20   a book or journal article, whose author has some level of responsibility for content but is not held
21   to account for readers' individual interpretations.
22

23   Further along the continuum are interactions that are more direct, which give rise to greater
24   accountability, and carry more potential for unethical behavior. An example would be when a
25   patient using an online health site or service poses a specific personal health question to which a
26   physician affiliated with the site/service offers an individualized response (which might include a
27   recommendation to see a physician in person, of course), either in real time or within an established
28   time frame. In such scenarios, by tailoring the response specifically to the individual, the physician
29   takes on a greater measure of accountability than one who posts general health content for public
30   consumption. This situation might be more like (though more formal than) a "cocktail party
31   consult" in which a physician is approached for guidance. Disclaimers to the effect that the
32   consultation does not establish a legally recognized patient-physician relationship, which some
33   sites provide, do not obviate the physician's ethical responsibility.
34

35   Still further along the continuum, in a teleradiology or teledermatology consultation, for example, a
36   specialist is able to access images (ideally accompanied by information about the patient's history),
37   review them, and offer insight in real time or asynchronously using store-and-forward technology
38   [2]. The underlying expectation is that the specialist's response will directly inform decisions about
39   the patient's care, for which the specialist will then share accountability with the treating physician
40   in keeping with expectations for in person consultations.
41

42   At the far end of the continuum are interactions in which a physician participates directly in a
43   patient's clinical care in real time via telecommunications and is held accountable for the care he or
44   she provides as a treating physician. Telepsychiatry is one example, in which care is electronically
45   mediated, but is not necessarily institutionally based [13]. Tele-oncology provides a second
46   example, in which a specialist provides care for a patient being seen in a remote clinic or other
47   institutional setting, in coordination with on-site professionals involved in the patient's care team
48   [3]. Physicians are also developing new formats for follow-up of patients with chronic health
49   conditions that take advantage of asynchronous communication to enhance care, provide greater
50   convenience for patients or their surrogates, and enable physicians to make effective use of limited
51   clinical time [14].

1 FAMILIAR CHALLENGES, NEW CONTEXT
2
3 Proponents of telehealth and telemedicine highlight how they open new channels of access to care
4 and offer new opportunities for truly patient-centered care [1,5,10,15]. Others are more cautious,
5 expressing concern about new (or exacerbated) risks to privacy and confidentiality, the limitations
6 of electronically mediated interactions for physical examination, and the potential for disruption of
7 the patient-physician relationship [4,8,16,17].
8
9 *Risks to Privacy & Confidentiality*
10
11 Compared to traditional in person encounters between patient and physician, the structure of
12 telehealth/telemedicine encounters can create new risks for breaching privacy and confidentiality:
13 at the patient end of the encounter, during transmission, and at the provider end. Protocols to
14 protect against unauthorized access and ensure the integrity of data must be in place at all three
15 points of the electronic interaction [8].
16
17 Electronic health encounters involve a wider range of third parties than traditional health care,
18 notably telecommunications service providers and their possible business affiliates, in addition to
19 health care personnel at one or both ends of the interaction. Some encounters will be protected
20 under privacy laws and regulation, but others may not and may carry additional risks—for
21 example, websites that offer health information may not actually be as anonymous as visitors think;
22 or they may leak information to third parties through code on the site or implanted on patients'
23 computers [9]. Similar concerns may apply to home monitoring devices and mobile health
24 applications, to which current privacy protections may not apply [8].
25
26 *Limitations of Electronic Encounters*
27
28 Other challenges are often attributed to perceived limitations of telehealth/telemedicine,
29 particularly the difficulty of conducting a physical examination and potential barriers to rapport
30 posed by telecommunications technologies. The structure of some telehealth activities may also
31 make it difficult to verify the identity of patients, surrogates, physicians, and other participants
32 [9,13].
33
34 In some electronic encounters, the inability to examine the patient physically carries serious
35 implications for patient safety and quality of care. In the 1990s, states began to prohibit physicians
36 from prescribing medications without a physical exam in an effort to protect patients from rogue
37 Internet pharmacies; in 2008 the federal government followed suit [16].
38
39 However, requiring a physical examination in addition to the basic requirement for an in-person
40 encounter as a condition for making a clinical diagnosis and prescribing, is out of step with the
41 evolution of telehealth/telemedicine capabilities, which offer increasingly sophisticated ways to
42 capture relevant information. Rather than a blanket prohibition against diagnosing and prescribing,
43 a more nuanced and sustainable approach would permit physicians utilizing telehealth/telemedicine
44 technology to exercise discretion in conducting a diagnostic evaluation and prescribing therapy,
45 within certain safeguards.
46
47 In real-time interactions between patient and physician who are in different locations that are
48 carried out through video conferencing technology, other clinicians are often present at the
49 patient's location and are in a position to carry out a physical exam as needed. Moreover, as
50 technologies for obtaining patient information remotely continue to evolve and improve, the need
51 for hands-on physical examination has diminished [14]. How physicians obtain information matters

1   less than that they have access to the information they need to make well-grounded
2   recommendations for the individual patient.
3
4   Model policy from the Federation of State Medical Boards (FSMB) requires that before a
5   prescription is written the identity of patient and physician are clearly established [18]. It also
6   requires the prescribing physician to evaluate the indication, appropriateness and safety of any
7   prescription in keeping with current standards of practice, and to document the clinical evaluation
8   and prescription in detail [18]. The FSMB further recommends that telemedicine technologies limit
9   medication formularies in keeping with the dictates of relevant state medical boards.
10
11   From early in the development of telemedicine, some observers have been concerned that
12   electronically mediated communication may be inherently less desirable than in-person
13   conversation in the physician's office or exam room [17]. Even the best current interactive video
14   conferencing technology can make the exchange of important nonverbal components of
15   communication more difficult [19,20]. The intervening technology can make it difficult for both
16   parties to see one another clearly enough to interpret the gestures, facial expressions, and body
17   language that often play an important role in conveying a speaker's meaning.
18
19   At the same time, however, some patients or their surrogates may be more comfortable interacting
20   electronically than in person. For example, studies indicate that patients may feel less intimidated
21   and communicate more candidly electronically [21]. Research also suggests that patients may not
22   feel that telemedicine adversely affects their relationships with physicians [10,22]. As with any
23   technology, much depends on how the technology is deployed—in the case of
24   telehealth/telemedicine, camera angles, placement of microphones, and other details [19]—and on
25   users' expectations, skill, and level of comfort. Training in communications skills is already
26   considered important in medicine [23]; training physicians to use technology to communicate
27   effectively with patients should be part of this effort.
28
29   *Matching the Mode of Care to the Patient*
30
31   These considerations indicate that telehealth/telemedicine will not be the right model of care for
32   every patient. To begin with, a patient or surrogate must have the resources to take advantage of
33   telehealth/telemedicine, including access to and ability to use requisite technology, appropriate
34   support (which may include having health care professionals or others present during interactions,
35   or access to emergency care, for example), and a level of comfort in getting care in this way—a
36   constellation of requirements recognized by many professional society guidelines for telemedicine
37   [13,24,25].
38
39   Telehealth/telemedicine must also be appropriate for the patient's specific situation. Despite its
40   promise, telehealth/telemedicine is not an appropriate model of care for all medical conditions [4].
41   For example, telemedicine is inappropriate for encounters when a hands-on physical examination is
42   crucial or critical data can be gleaned only through direct physical contact, and it is not possible to
43   gather the needed data through a team-based approach, and lack of that data creates concerns about
44   patient safety. More broadly, telemedicine is not the preferred approach when the technology does
45   not allow physicians to meet established clinical standards.
46
47   Whether telehealth/telemedicine is appropriate for a given patient may also depend on what access
48   the individual otherwise has to health care and appropriate technology. For some patients, in some
49   situations, it simply may not be feasible to receive care in person. When the options for a patient
50   are to receive care that may be less than ideal via telemedicine or not to receive care at all,
51   telemedicine services can be appropriate even though the physician, patient, or their surrogate,

1 would prefer that care be provided in person. For example, for a crewmember aboard a submarine
2 or an astronaut in space, telemedicine—whatever its limitations—may be the only way to provide
3 medical services. For a person in an isolated rural setting a six-hour drive from a specialist,
4 telemedicine may be preferable even when an in-person encounter would be marginally superior.
5
6 TRUST & ETHICAL PRACTICE IN TELEHEALTH/TELEMEDICINE
7
8 Forces of change have been at work in medicine for many years. The traditional scenario of a
9 patient and a physician facing each other in the same room at the same time is no longer the only
10 model for delivering care [20]. Express clinics in drugstores and big-box stores and free-standing
11 urgent care centers across the country enable patients to seek advice and care from physicians on a
12 one-time basis that doesn't carry expectations for an ongoing relationship. Group practices,
13 "medical homes," and accountable care organizations offer patients the opportunity to receive care
14 coordinated through a designated group of physicians and through health care facilities with which
15 they are associated. Telehealth/telemedicine is another stage in the ongoing evolution of models for
16 care, modes of delivery, and patient-physician interactions.
17
18 But while new technologies and new models of care will continue to emerge, physicians'
19 fundamental ethical responsibilities do not change. The practice of medicine is inherently a moral
20 activity, founded in a "covenant of trust" between patient and physician [26]. In any model for
21 care, patients and their surrogates need to be able to trust that physicians will place patient welfare
22 above other interests (fidelity), provide competent care, provide the information patients and their
23 surrogates need to make well-considered decisions about care (transparency), respect patient
24 privacy and confidentiality, and take steps to ensure continuity of care [27,28]. The task is to
25 understand how these fundamental responsibilities may play out differently in the context of
26 telehealth/telemedicine than they do in-person patient-physician interactions.
27
28 *Fidelity*
29
30 The obligation to put patient interests first requires that physicians who participate in telehealth
31 activities or telemedicine programs take steps to minimize conflicts of interest and bias. It is
32 important that physicians disclose financial or other interests that may influence them in their roles
33 with commercial health sites/services [29]. However, disclosure by itself is not enough. Physicians'
34 fiduciary responsibilities to patients mean physicians affiliated with telehealth/telemedicine should
35 also take active steps to manage or eliminate conflicts of interest.
36
37 *Competence*
38
39 The obligation to provide competent care has different implications at different points along the
40 continuum of electronic interactions between physicians and patients or prospective patients. Thus
41 physicians who provide general health information for online sites have a responsibility to ensure
42 that the content they provide is accurate and objective, just as they would for any professional
43 publication. Physicians who provide personalized responses to individual health queries have
44 additional responsibilities in keeping with their greater accountability to the individual who is
45 seeking guidance. In this context, the obligation of competence requires that the physician who
46 responds to an individual query about a specific health concern have appropriate clinical
47 qualifications and experience and have some means of obtaining the crucial information needed to
48 offer a well-considered professional recommendation. Physicians should bear in mind that state law
49 may further define specific expectations for competence in these situations.

1 For physicians who provide clinical services in telehealth/telemedicine, fulfilling the obligation to
2 provide competent care further entails being proficient in the use of the relevant technologies; they
3 must also be comfortable interacting with patients or their surrogates through these technologies.
4 Given the limitations on physical examination, physicians must utilize other means of acquiring
5 information that will be essential to making well-grounded recommendations in the patient's
6 situation, as well as information that would be desirable to have to enhance confidence in their
7 diagnosis. Developing clear understandings with health care professionals at the patient end of the
8 interaction as to informational needs will also be important. Determining whether
9 telehealth/telemedicine is in fact an appropriate model of care in the patient's individual
10 circumstances may require collecting additional and different information than in an in-person
11 interaction.
12
13 Competency also includes physicians' responsibility to be aware of the limitations of the
14 telehealth/telemedicine technologies they use and recognize when they are reaching those
15 limitations in caring for an individual patient. Physicians must know when to switch to a different
16 modality, including when to shift from telehealth/telemedicine to in-person care to meet the
17 patient's needs.
18
19 *Transparency & Informed Consent*
20
21 Physicians also have a responsibility to be transparent with patients/prospective patients. At one
22 end of the continuum, this may mean no more than disclosing one's credentials as the author of
23 health information. At the other end, it will entail obtaining the patient's informed consent for
24 clinical services that are delivered electronically. In the context of telehealth/telemedicine, patients
25 need to have information not only about medical issues and treatment options, but also about some
26 of the distinctive features of telemedicine.
27
28 For example, patients or their surrogates need to have a basic understanding of the credentials of
29 the physicians and other health care professionals who provide telehealth/telemedicine services.
30 Patients also need to be aware of how telemedical technologies will be used in their care and the
31 limitations of those technologies. Importantly, patients themselves (or their surrogates) or their
32 family members may be asked to play a different role in telemedicine from what they are used to in
33 traditional care, for example, by learning how to use monitoring devices at home, a factor that may
34 influence decision making. Physicians' responsibility to ascertain whether the patient/family has
35 the skills needed to participate in the care plan may be stronger in the context of telehealth/
36 telemedicine than in other encounters [30], especially when telehealth sites or mobile health
37 applications connect physicians and patients with whom they have no prior relationship and with
38 whom there is no expectation of follow-up.
39
40 *Privacy & Confidentiality*
41
42 The obligation to protect privacy and confidentiality is at least as important in the context of
43 telehealth/telemedicine as in hospital and office settings. Health information websites are expected
44 to publish their privacy policies so that users will know what information is collected from them (if
45 any) and how that information is to be used [31]. Physicians who provide content for health
46 websites have a responsibility to be satisfied that sites with which they are affiliated have relevant
47 privacy policies. Physicians should refrain from participating in sites that do not make them
48 available to site users.
49
50 Physicians who answer individual health queries or provide personalized health guidance
51 electronically must be confident that the sites/services with which they affiliate have appropriate

1 mechanisms in place to protect the confidentiality of individual information exchanged through the
2 site. They should also inform site users that there are potential risks to privacy when personal
3 health information is communicated electronically.
4
5 Physicians who provide clinical services via telehealth/telemedicine must adhere to sound privacy
6 practices themselves, and must assure themselves that health care professionals at remote sites with
7 whom they collaborate do likewise. Physicians should alert telehealth/telemedicine patients or the
8 surrogate that issues of data security and access can arise when data is shared remotely and stored
9 in multiple locations or record systems; patients should also be informed of steps the
10 telehealth/telemedicine program has taken to protect confidential information.
11
12 *Continuity of Care*
13
14 Fulfilling the obligation not to abandon the patient and to provide for continuity of care [27] may
15 also take on a new dimension in the context of telehealth/telemedicine. Physicians who only author
16 general health content do not enter into a patient-physician relationship with information seekers;
17 they therefore have no specific responsibilities regarding continuity of care. Physicians who
18 respond to individual health queries should be understood to be responsible for encouraging the
19 patient to seek in-person care when the physician deems that to be needed. Some
20 telehealth/telemedicine services may also identify physicians whom service users can contact to
21 arrange in-person care.
22
23 Physicians who provide clinical services through telehealth/telemedicine should discuss with
24 patients or their surrogates the importance of preserving information for future episodes of care,
25 and whether patients prefer to take responsibility for this or want the physician to do so, e.g., by
26 communicating directly with the patient's primary care physician. Information should include
27 recommendations for follow-up care when appropriate. Telemedicine programs that rely on
28 collaboration among the physician, patient (or the surrogate), and telemedicine team, and that
29 routinely convey the plan to patients' primary physicians if they are not a member of the team are
30 in a better position to develop plans of care that ensure appropriate follow-up. Physicians who
31 provide clinical telehealth/telemedicine services in settings where the encounter will not be
32 documented in an existing medical record should consider writing a note after each clinical
33 encounter for their own files.
34
35 THE EVOLVING WORLD OF PATIENT CARE
36
37 Many may feel that telehealth and telemedicine, with their technological sophistication, continuous
38 change, and rapid expansion, are standing medicine on its head. However, it may be more
39 appropriate to see the evolution of telecommunications in patient care as part of the history of
40 technology in medicine, and an opportunity to enhance access to care, quality of care, and
41 satisfaction for both patients and physicians. Thoughtfully implemented, telehealth/telemedicine
42 has the potential to enable physicians to use that most valuable of commodities, time spent in
43 person with patients, to greater effect [14].
44
45 For individuals who are comfortable with electronic technology, telehealth/telemedicine has the
46 potential to increase access to health care by making expert attention available to patients who
47 would otherwise have limited or no access to such care. Yet telehealth/telemedicine cannot
48 enhance access to high quality care if patients who might benefit from these innovations do not
49 have access to or the ability to use telecommunications technologies effectively. These may include
50 elderly individuals or others who have diminished perceptual, cognitive, or psychomotor abilities
51 [30,32], or members of communities that tend not to have ready access to or to adopt Internet

technologies [6,33-35]. Medicine as a profession can play an important role in advocating for initiatives that will help make the needed technologies more readily available to all patient populations who want to utilize telehealth/telemedicine services.

Achieving the promise and avoiding the pitfalls of electronically mediated care is not the responsibility of individual physicians alone. It requires coordinated effort across the profession, active engagement of specialty and professional organizations not only in medicine but also information technologies, and appropriate education and support for practicing clinicians [15,30].

RECOMMENDATION

In light of these considerations, the Council on Ethical and Judicial Affairs recommends that Opinions E-5.025, "Physician Advisory or Referral Services by Telecommunication," and E-5.027, "Use of Health-Related Online Sites," be amended by substitution as follows and the remainder of this report filed:

Innovation in technology, including information technology, is redefining how people perceive time and distance. It is reshaping how individuals interact with and relate to others, including when, where, and how patients and physicians engage with one another.

Telehealth and telemedicine span a continuum of technologies that offer new ways to deliver care. Yet as in any mode of care, patients need to be able to trust that physicians will place patient welfare above other interests, provide competent care, provide the information patients need to make well-considered decisions about care, respect patient privacy and confidentiality, and take steps to ensure continuity of care. Although physicians' fundamental ethical responsibilities do not change, the continuum of possible patient-physician interactions in telehealth/telemedicine give rise to differing levels of accountability for physicians.

All physicians who participate in telehealth/telemedicine have an ethical responsibility to uphold fundamental fiduciary obligations by disclosing any financial or other interests the physician has in the telehealth/telemedicine application or service and taking steps to manage or eliminate conflicts of interests. Whenever they provide health information, including health content for websites or mobile health applications, physicians must ensure that the information they provide or that is attributed to them is objective and accurate.

Similarly, all physicians who participate in telehealth/telemedicine must assure themselves that telemedicine services have appropriate protocols to prevent unauthorized access and to protect the security and integrity of patient information at the patient end of the electronic encounter, during transmission, and among all health care professionals and other personnel who participate in the telehealth/telemedicine service consistent with their individual roles.

Physicians who respond to individual health queries or provide personalized health advice electronically through a telehealth service in addition should:

(a) Inform users about the limitations of the relationship and services provided.

(b) Advise site users about how to arrange for needed care when follow-up care is indicated.

(c) Encourage users who have primary care physicians to inform their primary physicians about the online health consultation, even if in-person care is not immediately needed.

Physicians who provide clinical services through telehealth/telemedicine must uphold the standards of professionalism expected in in-person interactions, follow appropriate ethical guidelines of relevant specialty societies and adhere to applicable law governing the practice of telemedicine. In the context of telehealth/telemedicine they further should:

(d) Be proficient in the use of the relevant technologies and comfortable interacting with patients and/or surrogates electronically.

(e) Recognize the limitations of the relevant technologies and take appropriate steps to overcome those limitations. Physicians must ensure that they have the information they need to make well-grounded clinical recommendations when they cannot personally conduct a physical examination, such as by having another health care professional at the patient's site conduct the exam or obtaining vital information through remote technologies.

(f) Be prudent in carrying out a diagnostic evaluation or prescribing medication by:

  (i) establishing the patient's identity;

  (ii) confirming that telehealth/telemedicine services are appropriate for that patient's individual situation and medical needs;

  (iii) evaluating the indication, appropriateness and safety of any prescription in keeping with best practice guidelines and any formulary limitations that apply to the electronic interaction; and

  (iv) documenting the clinical evaluation and prescription.

(g) When the physician would otherwise be expected to obtain informed consent, tailor the informed consent process to provide information patients (or their surrogates) need about the distinctive features of telehealth/telemedicine, in addition to information about medical issues and treatment options. Patients and surrogates should have a basic understanding of how telemedicine technologies will be used in care, the limitations of those technologies, the credentials of health care professionals involved, and what will be expected of patients for using these technologies.

(h) As in any patient-physician interaction, take steps to promote continuity of care, giving consideration to how information can be preserved and accessible for future episodes of care in keeping with patients' preferences (or the decisions of their surrogates) and how follow-up care can be provided when needed. Physicians should assure themselves how information will be conveyed to the patient's primary care physician when the patient has a primary care physician and to other physicians currently caring for the patient.

Collectively, through their professional organizations and health care institutions, physicians should:

(i) Support ongoing refinement of telehealth/telemedicine technologies, and the development and implementation of clinical and technical standards to ensure the safety and quality of care.

1   (j) Advocate for policies and initiatives to promote access to telehealth/telemedicine
2   services for all patients who could benefit from receiving care electronically.
3
4   (k) Routinely monitor the telehealth/telemedicine landscape to:
5
6   (i) identify and address adverse consequences as technologies and activities evolve; and
7
8   (ii) identify and encourage dissemination of both positive and negative outcomes.
9
10 (Modify HOD/CEJA Policy)

Fiscal Note: Less than $500

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REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS

Subject: Professionalism in Telemedicine

Presented by: Patrick W. McCormick, MD, Chair

1   Policy D-480.974 instructs the Council on Ethical and Judicial Affairs (CEJA) to review Opinions
2   relating to telemedicine/telehealth and update the *Code of Medical Ethics* as appropriate.
3
4   After a thorough review of the literature and of current policies regarding telemedicine, telehealth,
5   and communications between a patient and a physician both in the context of and prior to a formal
6   relationship, CEJA concluded that the request to review current related Opinions raised broader
7   ethical questions surrounding appropriate physician behavior in these contexts. The Council
8   recognized the need to examine the implications of a continuum of online interactions between
9   patients and physicians for implementing core ethical obligations with respect to competence,
10 informed consent, privacy and confidentiality, continuity of care, and responsible prescribing.
11
12 The Council continues to seek input from key stakeholders to inform its deliberations and
13 anticipates submitting its analysis and recommendations in a report to the House at the 2015
14 Annual Meeting.

REPORT OF THE COUNCIL ON ETHICAL AND JUDICIAL AFFAIRS[*]

CEJA Report 6 - A-03

Subject: Use of Health-Related Websites

Presented by: Leonard J. Morse, MD, Chair

Referred to: Reference Committee on Amendments to Constitution
                and Bylaws
                (Donna A. Woodson, MD, Chair)

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1   The Internet is "an interconnected system of networks that connects computers around the world
2   via the TCP/IP protocol"[1] and which provides information and visual content to users. Websites
3   and online software providers (e.g. America Online) can vary in their sophistication, some allowing
4   for audio-visual transmission, others allowing only for text communication through means such as
5   electronic mail (e-mail), private chat rooms, online discussion groups (also known as Usenet
6   groups), and instant messaging.
7
8   It has been estimated that more than 10,000 websites contain health information on the Internet.[2]
9   Individuals turn to the Internet to find information quickly and efficiently. However, many ethical
10 concerns have been raised regarding medical information and services on the Internet. This report
11 will address those ethical concerns.
12
13 HEALTH-RELATED WEBSITES
14
15 Health-related websites, including those developed by physicians, exist in many formats that
16 broadly fall under two categories: informational sites and interactive sites. Informational websites
17 often provide a wide range of information including information related to physicians' practices,[3]
18 or information regarding certain medical conditions or specific treatment options. These
19 informational sites are not intended to offer individualized diagnostic or therapeutic advice to
20 online visitors. In contrast, interactive sites may provide a forum for individuals to request specific
21 health information. These sites may specify that questions are reviewed by health care
22 professionals, including physicians, or may provide the e-mail addresses of participating physicians
23 whom individuals can contact for additional information. Other interactive websites facilitate only
24 the exchange of administrative information, such as appointments, rather than medical information.
25
26 *Consumer Use and Expectations*
27
28 Increasingly, individuals seek online consultations through health-related websites.[4]   In 2001,
29 approximately 3 million people used the Internet for online consultations with a medical expert.[5]
30 By using the Internet, online visitors can eliminate geographic or logistical obstacles in obtaining
31 medical information.[6] For example, a recent survey revealed that 41% of patients participating in
32 the study were reluctant to spend time in physicians' offices to ask questions that could be

1 answered through other means of communication, such as e-mail. The survey also concluded that
2 81% of the online population would like to receive e-mail reminders for preventive care and 83%
3 would like follow-up e-mails after a visit to their physicians.[7]
4
5 Patients may obtain second opinions through websites. For example, the Cleveland Clinic
6 established e-Cleveland Clinic, an Internet site through which expert review of medical records and
7 diagnostic tests can be sought to obtain a second opinion.[8] Individuals enter a secure website and
8 fill out an online questionnaire that documents their medical condition. They also are asked to
9 submit necessary information, such as medical records or test results, through the site. Within a
10 few days, individuals receive an e-mail message instructing them to access the secure website to
11 read the second opinion.[8]
12
13 The second opinion provided by e-Cleveland Clinic is accompanied by a disclaimer, which
14 explicitly states that it is offered without the benefit of information usually obtained during a face-
15 to-face encounter or through a physical examination and, therefore, that important information may
16 have been missing on which the second opinion was based.[8] In light of this limitation, the e-
17 Cleveland Clinic strongly encourages second opinions to be shared with the requestor's treating
18 physician. When mandated by law or requested by the patient, the second opinion is directly sent
19 to the treating physician. In such circumstances, the second opinion is rendered within an
20 established patient-physician relationship. However, in the absence of communication with the
21 treating physician, providing a second opinion via a health-related website can be problematic.
22 Specifically, there may be an increased risk of misdiagnosis or an inappropriate treatment
23 recommendation due to the absence of more complete information, which usually is obtained when
24 there is an established patient-physician relationship.
25
26 Interestingly, there are important differences between consumer and physician expectations
27 regarding the function of health-related websites. A study of patient use of health-related websites
28 found that although the number of health information consumers was climbing, the satisfaction of
29 the users was declining. The survey revealed that more patients wanted to use the Internet to
30 communicate with their physician. More specifically, patients wanted advice and services from
31 their physicians while online and were disappointed when their physicians resisted e-mail
32 communication.[9] A 2002 survey found that only 26% of online physicians used the Internet to
33 contact patients. These results illustrate a challenge for patients and physicians: how to use the
34 Internet as a supplement to the patient-physician relationships.
35
36 *Physician Websites*
37
38 While 89% of physician respondents to a 2002 survey use the Internet for some clinical purpose,[9]
39 approximately 30% of physicians have their own website.[10] Many physicians develop interactive
40 websites for administrative purposes in response to patient preferences.[11] Websites that allow
41 patients to schedule or cancel appointments, or to obtain prescription renewals or a referral appear
42 to reduce the number of requests that account for 80% of physicians' daily phone calls.[12]
43
44 Besides addressing administrative functions, some physicians establish or participate in interactive
45 websites that provide medical information. For example, some websites facilitate general
46 dialogues related to a medical condition. These websites enable patients to ask specific medical
47 questions. This may occur in the form of real-time dialogues with therapists, primary care
48 physicians, or other medical specialists. In some instances, however, a computer response is

1 generated that may contain a diagnosis and treatment recommendations, without any direct
2 physician involvement.[13]
3 Also, there are interactive websites that offer prescription drugs to patients. For example, one
4 website uses board-certified primary-care physicians from Illinois and Indiana to diagnose and
5 prescribe medication to individuals in those two states. The website uses a triage system to
6 separate minor illnesses from serious conditions and only offers online assistance for acute, minor
7 illnesses. Individuals with serious or life-threatening conditions are advised to seek immediate
8 medical attention.[14, 15] Patients are charged for the services and consultation they received.
9
10 Most people pay out-of-pocket for online services. However, to encourage cost-effective physician
11 contacts, several health insurance companies are considering reimbursements for health care
12 services rendered over the Internet.[16]
13
14 QUALITY STANDARDS AND GUIDELINES
15
16 The quality of health-related websites and the reliability of the information that is provided vary
17 considerably. Individuals can find many highly sophisticated Internet resources that are sponsored
18 by well-known entities such as reputable medical institutions, which will generally offer reliable
19 information or services.[17] Other sites may appear very similar but offer incomplete or outdated
20 information, propagate false information, or dispense services that are unregulated. Some sites
21 may be sponsored by entities with a financial interest in the information or services provided. Yet,
22 they may not appear as commercial sites to some users.
23
24 Although only 2% of online users know someone who has been seriously harmed by website-based
25 medical advice or health information,[18] the quality of health-related websites is a concern for many
26 online visitors and physicians. In a 2001 study, it was found that a majority of health-related
27 websites that had been reviewed lacked completeness in information and accuracy.[19] Furthermore,
28 a recent inspection of websites world-wide uncovered more than a thousand sites that make false
29 claims or provide misleading information.[20]
30
31 Guidelines exist to protect online visitors and physicians when using interactive websites. The
32 Federation of State Medical Boards created guidelines for physicians who offer health-related
33 websites, emphasizing five ethical standards: candor, privacy, integrity, informed consent, and
34 accountability.[21] Overall, information contained on physician websites should be truthful and not
35 misleading or deceptive. Also, physicians have an obligation to disclose information that could
36 influence patients' understanding or use of the information, including financial, professional or
37 personal conflicts of interest.[21]
38
39 In December 2002, a consortium of medical societies and medical liability carriers concluded that
40 physicians should engage in online consultations with previously established patients only and
41 existing standards from the eRisk Working Group for Healthcare were updated to discourage the
42 online treatment, diagnosis, or prescription of medications to unknown individuals.[22] These new
43 standards were based on disciplinary actions that had been taken by some licensing boards against
44 physicians who had offered medical treatment to unknown, online patients, [23] and were intended to
45 provide uniform standards for all state licensing boards.
46
47 Other forms of protection for users of health-related websites include the work of the American
48 Accreditation HealthCare Commission (also known as URAC), which accredits health-care sites.[24]
49 This accreditation process is based on the ethical standards set by Health Internet Ethics (Hi-

1 Ethics),[25] which address privacy, security, quality of information, fairness of transactions, and
2 professional conduct. Thus far, 16 health-related websites have received accreditation by URAC.[26]
3 Unfortunately, only 19% of Internet users find accreditation "very important" and only one-quarter
4 of online users follow guidelines for checking the sources and timeliness of a website's
5 information.[26] Many consumers tend to focus on the style or the "look" of a website rather than the
6 accuracy or reliability of its content.[27]
7
8 To address security and privacy concerns, the AMA Internet ID provides a reliable authentication
9 technique and also protects patient and physician information when it is sent or received over the
10 Internet.[28] This feature alleviates many worries that have been voiced by both patients and
11 physicians. Also, the AMA has issued guidelines for all AMA-affiliated websites to address
12 content definitions, privacy and confidentiality concerns, funding and sponsorship, and content
13 quality. [29]
14
15 Finally, many health-related websites include disclaimers. These disclaimers often make clear the
16 physician's scope of responsibility and the intent of the provided health information. However,
17 disclaimers do not absolve physicians from their responsibility to patients or their responsibility to
18 provide reliable and factual information.
19
20 ETHICAL CONSIDERATIONS
21
22 Interactive as well as informational websites may raise ethical concerns, including accuracy, the
23 credentials or qualifications of web-based physicians, conflicts of interest, and advertising.
24 Moreover, the security, privacy, and confidentiality of information transmitted to and from
25 interactive websites, including those limited to administrative functions, must be considered.
26
27 *Accuracy, Qualifications, and Standard of Care*
28
29 In regards to websites that provide health-related information, both online visitors and physicians
30 are leery of the accuracy of the information. To alleviate these concerns, information presented on
31 websites should identify the source of their information and be updated frequently since outdated
32 information can be misleading and harmful.   When physicians develop their own sites, they should
33 strive to make information easily accessible to the patient population they generally serve,
34 particularly in relation to patients' levels of health literacy and proficiency in English.
35
36 It is also important that information regarding credentials or qualifications of web-based physicians
37 be accurate. To the extent that interactive websites could constitute the practice of medicine,
38 participating health care professionals should bear in mind that the practice of medicine by an
39 unlicensed person is unethical,[30] as well as illegal.
40
41 Health-related websites that provide medical advice or care outside an existing patient-physician
42 relationship and without information from a physical exam, or that rely on computer generated
43 responses, are also ethically problematic because of the increased risk of misdiagnosis or
44 inappropriate treatment recommendations. Therefore, physicians should refer to general and
45 specialty-specific standards regarding the appropriate use of interactive websites, including their
46 possible use in the absence of a pre-existing patient-physician relationship, as well as the use of
47 algorithms that may generate diagnoses or prognoses that are directly transmitted to users.

1 *Conflicts of Interest and Advertising*
2
3 When establishing or participating in a website, physicians should consider any potential conflicts
4 of interest that could emerge, particularly when the site is commercially sponsored or offers
5 commercial services. To this end, the AMA's *Guidelines for Medical Information Websites*
6 maintains that all sponsorship or funding of websites should be clearly indicated and any
7 advertising should be easily distinguished from and should not be clinically related to the content
8 of a webpage.
9
10 Existing guidelines from the AMA's *Code of Medical Ethics* concerning conflicts of interest or
11 commercial biases also apply to health-related websites, including the prohibition against the
12 provision of unnecessary service or the limitations on self-referral and the sale of products.[31, 32]
13 Also, when making promotional claims on their websites, as with other forms of advertising,
14 physicians must be mindful of Opinion E-5.02, "Advertising and Publicity."
15
16 *Security, Privacy, and Confidentiality*
17
18 When establishing or participating in interactive websites, physicians must consider security and
19 privacy concerns. This also applies to the use of interactive websites that are limited to
20 administrative functions, since they are likely to include personal information such as the patients'
21 name or address, or even a diagnosis or other sensitive information. Physicians who establish or
22 participate in websites through which they answer e-mails from individuals should follow the
23 ethical guidelines provided in CEJA Report 3-I-02, "Ethical Guidelines for the Use of Electronic
24 Mail between Patients and Physicians."
25
26 CONCLUSION
27
28 Health-related websites offer a wide range of information and services and are used by health
29 professionals, patients, and the public with increasing frequency. While there is great hope that the
30 Internet can become a reliable resource for health-related matters, it is necessary to remember that
31 currently it is largely unregulated. Therefore, it important that physicians who establish health-
32 related websites or are involved in the provision of information or services through them must
33 adhere to guidelines issued by professional groups. These standards will ensure that websites are
34 used in a manner that is beneficial to patients rather than fraught with potential harm. In time, with
35 assistance from their physicians and information provided by health website accreditation agencies,
36 patients may learn to optimize their use of health-related websites to find reliable information. It
37 also may be possible for patients to receive services in a manner that is efficient, does not
38 compromise their health, and enhances the personal encounters and ongoing personal relationships
39 upon which the therapeutic alliance has traditionally been founded.
40
41 RECOMMENDATIONS
42
43 The Council recommends that the following be adopted and the remainder of the report be filed:
44
45   As Internet prevalence and access rapidly increases, individuals turn to the Internet to find
46   health-related information quickly and efficiently. Online users can access innumerable
47   informational or interactive websites, many of which are maintained by physicians or rely on
48   their services. Physician involvement should be guided by the following considerations:

1. Physicians responsible for the health-related content of a website should ensure that the information is accurate, timely, reliable, and scientifically sound, and includes appropriate scientific references.

2. The provision of diagnostic or therapeutic services through interactive websites, including advice to online users with whom the physician does not have a pre-existing relationship or the use of decision-support programs that generate personalized information directly transmitted to users, should be consistent with general and specialty-specific standards. General standards include truthfulness, protection of privacy, principles of informed consent, and disclosures such as limitations inherent in the technology.

3. When participating in interactive websites that offer email communication, physicians should follow guidelines established in Opinion 5.026 "Use of Electronic Mail."

4. Physicians who establish or are involved in health-related websites must minimize conflicts of interest and commercial biases. This can be achieved through the development of safeguards regarding funding and advertising that require disclosure and honesty. It also requires that physicians not place commercial interests ahead of patient health; therefore, physicians must not use health-related websites to promote unnecessary services, refer patients to entities in which they have ownership interests, or sell products outside of established ethical guidelines. (See Opinions 2.19 "Unnecessary Services," 8.032, "Conflicts of Interest: Health Facility Ownership by a Physician," 8.062 "Sale of Non-Health-Related Goods from Physicians' Offices," and 8.063 "Sale of Health-Related Products from Physicians' Offices"). Promotional claims on websites must conform to Opinion 5.02, "Advertising and Publicity."

5. Physicians who establish or are involved in health-related websites that use patient specific information must provide high-level security protections, as well as privacy and confidentiality safeguards.

(New House/CEJA Policy)

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[32] Council on Ethical and Judicial Affairs. "Opinion 8.032 Conflicts of Interest: Health Facility Ownership by a Physician." *AMA's Code of Medical Ethics: Current Opinions.* 2002-2003 ed. American Medical Association: Chicago, IL.