

Telemedicine, Women, and the Law

By J. Darin Stewart, JD and Erica G. Burns, JD

Telemedicine, also commonly referred to as telehealth or cybermedicine, is a highly sophisticated form of medical treatment providing state-of-the-art medical care to patients from a distance. Telemedicine consists of physician to physician or patient communication via electronic communications, such as two-way video, email, and smart phones. Telemedicine has been utilized by physicians since the early 1960s when NASA telemetered the physiological measurements of the astronauts from their spacecraft and space suits. Today, telemedicine is used in physician offices and hospitals nationwide, including Florida Hospital.

Women are currently receiving OBGYN telemedicine services resulting in more convenient and less expensive treatment. In Georgia, Women's Telehealth provides virtual access to obstetric care for high-risk women. These women receive expert care without having to travel or be transferred to another facility. Another company, Maven, provides telemedicine to women through a mobile telephone application. Maven allows women to seek medical advice and treatment from the comfort of their homes.

While telemedicine for women is emerging, there are legal hurdles. Telemedicine physicians serving patients in multiple states must be licensed in each state, but many states impose policies making practicing across state lines difficult. Also, telemedicine could result in greater medical malpractice liability. Diagnosing patients without any face-to-face interaction could lead to mal-

practice liability if the diagnosis is inaccurate, the patient relies on that advice, and is harmed as a result.

Another legal hurdle involving both licensure and malpractice is the standard of care to which telemedicine physicians will be held, and to which standard physicians must adhere when licensed in multiple states with conflicting rules. For example, in Texas, a telemedicine physician is held to the same standard as physicians practicing in the presence of the patient, but a telemedicine physician in Hawaii is held to a lower standard.

Attempting to combat legal hurdles impeding telemedicine in Florida, last year, the Florida Board of Medicine enacted regulations governing telemedicine standards. Also, in 2015, the Florida Senate attempted, but failed, to pass its bill providing specific standards for telemedicine providers and authorizing providers to use telemedicine to prescribe controlled substances, among other things.

Although the Florida legislature has yet to enact laws regulating this field of medicine, we anticipate the alignment of the law and telemedicine to benefit women and others worldwide.

References available upon request.

J. Darin Stewart, J.D., C.P.A. is a shareholder with GrayRobinson. He represents organizations, individuals, and individual medical providers whose needs include solutions to federal and state health care regulatory compliance issues, complex financing vehicles, establishing corporate structures through which to transact business enterprises, leasing issues, and numerous corporate law issues. Darin can be reached at 407-244-5639 or darin.stewart@gray-robinson.com.

Erica G. Burns, J.D. is an attorney with GrayRobinson and also a member of the health care and corporate practice groups. She represents medical facilities, providers, and corporate entities on federal and state statutory and regulatory compliance issues, contract review and analysis, and complex business transactions. She can be reached at 407-843-8880 or erica.burns@gray-robinson.com. ■



J. Darin Stewart, JD



Erica G. Burns, JD



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