Telemedicine and Neurology Practice—
How to Minimize the Risks

November 5, 2012

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Interacting via the internet has become a common part of our lives—sending emails to others throughout the world, blogging, social networking, attending online CME courses, and so forth. Technology also can foster advances in patient safety and patient care and allow neurologists to reach underserved rural areas to provide care remotely. As the use of internet technology in medicine rapidly expands, neurologists inevitably will consider how some of those technologies might be applied to their own practices. However, neurologists should keep in mind the various types of professional liability risk exposures related to the use of internet technologies. Once these risks are considered, you can choose to avoid, assume, minimize, or transfer these risks, as appropriate.

Improvements in internet technologies have been made in recent years and medicine has been quick to adopt those technologies. Telemedicine is the use of technology to facilitate clinical care at a distance. Telemedicine technologies typically include, but are not limited to, telephone, email, and real-time videoconferencing.

Neurology, as a specialty, adopted telemedicine long ago to facilitate stroke treatment. “Telestroke” networks link stroke neurologists with hospitals underserved by specialists. A stroke neurologist typically “sees” a patient by audiovisual link, receives images and laboratory test results, and consults with emergency department providers to deliver expert stroke care.

Telemedicine, if done well, can benefit patients. It also presents significant risks for the unwary. Thoughtful consideration and planning are required before adopting telemedicine technologies. Here are some issues you should consider before building a telemedicine practice.

Treating patients remotely involves at least two risk hurdles—legal and clinical. The first hurdle involves determining if an additional medical license is required if you are treating an out-of-state patient. There can be serious consequences (including insurance coverage issues) if you are found to be practicing medicine without a license. Courts and licensing bodies are ruling that medical services are rendered where the patient is physically located, so you will need to check with the patient’s state medical board, as well as your own medical board, to determine what is required for you to legally treat the out of state patient. If a second medical license is required, you will need to ensure compliance with all relevant states’ laws and regulations.
Once the first hurdle is cleared, there is still the second hurdle to consider—your ability to deliver good clinical care and meet the standard of care at a distance. Utilizing telemedicine does not alter the standard of care to which you will be held—it is the same standard that would apply if the patient was seen in your office or healthcare facility. You should carefully evaluate whether a particular form of telemedicine is appropriate for a given patient, both at the beginning of the treatment relationship and periodically as treatment progresses. You will need to be able to conduct an appropriate examination sufficient to treat the patient or arrange for such an examination. Patients will need to provide informed consent for treatment via telemedicine. You will also need to verify the patient’s location and have a plan to respond to clinical emergencies and technology failures.

Technology is a tool that can partially restore the lost abilities to evaluate and treat patients at a distance, but by itself technology cannot completely restore all abilities. You should gather as much guidance as possible from state licensing boards, professional organizations, the literature and research, and colleagues. As always, you should focus on determining whether treatment via telemedicine will help the patient progress toward legitimate treatment goals.

Given that technology advances much more quickly than the law, the legal foundation (case law, statutes, and regulations) for the risk management advice related to internet activities is still evolving. In the meantime, the above general overview of risks and risk management advice should serve as a starting point.

“Telemedicine and Neurology Practice—How to Minimize the Risks” was presented during the AAN Online Career Fair on Thursday, September 27, 2012 by David Cash, JD, LLM, Assistant Vice President, Risk Management at Professional Risk Management Services, Inc. (PRMS). To request the free companion risk management resource to this webinar, visit www.TNPInsurance.com/telemedicine.

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