Richelle Marting
JD, MHSA, RHIA, CPC, CEMC, CPMA, CPC

Richelle Marting is an attorney, registered health information administrator, and certified coder who focuses on healthcare coding, billing, and reimbursement issues. She has practical, in-the-trenches experience with coding and billing issues. She has served as an outpatient multi-specialty surgery coder, hospital-based outpatient coder and a compliance coordinator for a large multi-specialty medical group. As an attorney she advises clients proactively on complex reimbursement questions and has guided multiple clients through extensive Medicare and OIG audits and investigations.

Diane Bellquist
Attorney, Joseph, Hollander, and Craft

Diane’s experience working for government agencies includes the Kansas Board of Healing Arts and in her practice she defends licensed individuals and entities before their respective regulatory boards. Her regulatory defense practice includes appealing application denials, responding in investigations of complaints, negotiating settlement agreements, defending against allegations in formal disciplinary proceedings, and petitioning for judicial review of agency actions.
Interstate Licensing

• There is no federal license scheme that authorizes physicians to practice anywhere within the US (and its territories) with one single license

• The individual states have the police power to regulate the practice within their respective state borders

• This results in a patchwork of licensing requirements and laws across the 50 states and US territories
Pre-COVID, general rule was that professionals had to be licensed in the state where the patient was located at the time a telehealth service was rendered.

Medicare required providers to follow applicable state licensing rules in order to be paid for telehealth services *(Source: 42 CFR 410.78)*

March 2020: CMS waived the *payment requirement* that distant site telehealth professionals must be licensed in the state where the patient is located
Kansas: A physician holding a license issued by a licensing agency of another state who otherwise meets certain requirements may practice telemedicine to treat patients located in the state of Kansas. Physician must receive a telemedicine waiver from the Board of Healing Arts.

- Permits provision of consultation through remote technology to a Kansas-licensed physician
- Licensing agencies may adopt procedures to allow other professionals to practice telemedicine

(Source: KSA 65-28,135)
Missouri: In order to treat patients in this state through the use of telemedicine or telehealth, health care providers shall be fully licensed to practice in this state and shall be subject to regulation by their respective professional boards. Exceptions:

- Informal, infrequent consults (no provider-patient relationship)
- Care during disaster or emergency provided for free

(Source: RsMO 191.115)
Provider Licensing 101

**Oklahoma:** Physicians treating patients in Oklahoma through telemedicine must be fully licensed to practice medicine in Oklahoma

*(Source: OAC 435:10-7-13)*
• Federation of State Medical Boards created the Interstate Medical Licensure Compact (IMLC)

• 2017 Interstate Medical Licensure Compact was operational
  • Kansas – joined the Compact in 2016
  • Missouri – Legislation Introduced in 2021
  • Oklahoma – joined the Compact in 2020

• 2022 – a total of 31 states have joined the Compact

• The Compact was intended to facilitate the expansion of telehealth, while thwarting federal licensing and preserving the states’ regulatory authority over the practice of medicine.
Interstate Licensing Compacts

• Eligibility Requirements
• Application Process
• Timeframes for Response
Interstate Medical Licensing Compact - Eligibility

• Graduated from an accredited medical school or one listed in the International Medical Education Directory
• Completed ACGME or AOA accredited postgraduate training
• Passed each component of the USMLE, COMLEX or equivalent in no more than three attempts for each component
• Hold a current specialty certification in an ABMS or AOABOS board
Interstate Medical Licensing Compact - Eligibility

• Hold an *unrestricted* medical license in a Compact member-state
• State of Principal License is the physician’s primary residence (and declared state of residence for federal income tax purposes)
• Physician must practice at least 25% in state or principal license
• Physician is employed in the state of principal licensure
• No history of disciplinary actions
• No criminal convictions (or deferred adjudications)
• Not under investigation
Interstate Medical Licensing Compact

- Each state must adopt the compact licensure act in its entirety without modifications

- About 1 million licensed physicians in the US
  - Approximate 15% have 2 state licenses
  - Approximate 7% have 3 or more

- Figures estimate 80% of physicians would meet the eligibility criteria

- March 2022 – over 2,000 applications processed
Interstate Licensing

• Standards of Practice from State to State

• Regulatory compliance
  • Must comply with each states’ laws
  • Ignorance of the law is not a defense
  • Practice Tip: Review the laws in each state that you are licensed in for general familiarity with them.
• Several national telehealth companies that have not operated above board have come under the investigation by the Department of Justice
• Medicare may issue providers requests for records
• The provider has the duty to maintain the records of services provided and produce upon requested to Medicare or face risk of revocation of privileges
Physical Therapy Licensure Compact
Speech Therapy Licensure Compact
COVID PHE

• Federal DHHS PHE Extended through July 2022
  • During the federal PHE, Medicare allows telehealth to patients at home
  • During the federal PHE, Medicare will pay for telehealth regardless of provider’s state
    • Payment rule, not a licensing rule
  • Supervision can be accomplished through audio-visual communication instead of in-person only
Impact of Billing for Services

- Billing for a telehealth service can be an indicia of establishing a provider-patient relationship
- Standard of care
- Medical record responsibilities
- Billing for new patient services
- DEA licenses and states with second controlled substance requirement
Coding and Billing Impact

• Requirements for providing consultation, evaluation, monitoring, and prescriptions to providers or patients in other states may depend on whether the specific service constitutes telehealth under originating site’s laws
• Generally, providers must report their practice locations to payors
• Service location is reported in Box 32 of the CMS 1500 claim form
Questions?

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Please contact the Heartland Telehealth Resource Center for Technical Assistance
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