

Telemedicine Legal Considerations: Credentialing by Proxy

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NAMSS: Telemedicine Legal Considerations

Credentialing By Proxy

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Why discuss Credentialing by Proxy now?

- Telemedicine is a service delivery vehicle, with enormous potential, that has undergone rapid expansion over the last several years.
- But traditional medical staff credentialing and privileging processes have inhibited that expansion.
- Why?—because traditional processes:
 - Are too cumbersome, time-consuming, and costly
 - Require individualized data gathering, verification, and review of multiple, varied sources of data for each applicant
 - Involve a multi-tiered review/recommendation/approval process for each applicant

Traditional Credentialing Reality

- At most hospitals, “traditional” credentialing includes at least the following steps, for **every** staff applicant:
 - Submission of required information to a medical staff office
 - Gathering, checking and verification of data by the medical staff office
 - Requesting/obtaining missing data, by the medical staff office, to ensure review of a “complete” application
 - Review by a department chief, who makes a recommendation regarding staff membership and specific privileges
 - Review by a credentials committee, which makes a recommendation regarding staff membership and specific privileges
 - Review by a medical executive committee, which makes a recommendation regarding staff membership and specific privileges
 - Review and final action by the governing body

More Traditional Credentialing Realities

- Traditional credentialing is not suited to telemedicine services delivered by, e.g., tertiary facilities or specialty groups who deploy multiple practitioners to provide the services, many of whom are also providing services in multiple facilities and perhaps in multiple states
- Many originating site hospitals don't have the personnel, time, or specialty expertise to timely and effectively review multiple telemedicine applications, particularly if for sub-specialty providers

So, What is Credentialing by Proxy and Why Might it Make Sense for My Organization?

- Credentialing by Proxy (“CBP”) is an alternative credentialing mechanism whereby hospitals seeking to obtain telemedicine services for their patients (i.e., “originating site hospitals”) can credential telemedicine practitioners who deliver their services from “distant sites.”
- For “originating site” hospitals, CBP is a means to:
 - Streamline the credentialing process for bringing on telemedicine practitioners
 - Quickly and cost-effectively expand service offerings and clinical support
 - Enable the efficient, timely credentialing of a broad array of multiple practitioners and specialists with minimal strain on the medical staff and administrative support staff
- For “distant site” entities (the entities seeking to provide the telemedicine services), CBP reduces the paperwork and the time required, as well as the cost, to get their practitioners credentialed and operational at the originating sites.

How does “Credentialing by Proxy” work?

- CBP allows originating site hospitals to rely on the credentialing processes and actions of a distant site hospital or entity when performing credentialing for telemedicine applicants.
- Stated another way, it means that the originating site hospital does not have to undertake separate credentialing for each telemedicine applicant—it can let the distant site do most of that work, and the originating site medical staff can rely on the distant site’s work when making its credentialing recommendations to its governing body.

How Can Hospitals Implement Credentialing by Proxy?

- 2 things are needed under the COPS:
 - A written credentialing agreement between the originating site hospital and the distant site hospital (DSH) or entity (DSTE), and
 - Medical Staff Bylaw changes at the originating site hospital to accommodate credentialing by proxy

Requirements for written credentialing agreements

- Credentialing agreements must provide that:
 - The distant site uses a credentialing/privileging process that meets Medicare standards.
 - All practitioners seeking privileges at the Originating Site have privileges at the DSH or DSTE.
 - The DSH or DSTE will provide the Originating Site hospital with a list of the current privileges for each applicant.
 - The practitioners seeking privileges at the Originating Site are licensed to practice in the Originating Site's state.
 - The Originating Site hospital will periodically review the services provided to its patients by the distant site practitioners and report that information to the DSH or DSTE for use in performance evaluations.
 - These reports are to include all adverse events or complaints related to each telemedicine practitioner's services provided at the Originating Site hospital.

Requirements for written credentialing agreements (cont'd)

- Also:
 - For agreements with DS Hospitals, the agreement must state that the DSH is a Medicare-participating hospital.
 - For agreements with DS Telemedicine Entities (e.g., physician practice, hospital that is not Medicare participating, other non-hospital telemedicine provider), the agreement must state that the DSTE is
 - a contractor of services to the Originating Site hospital
 - furnishes the telemedicine services in a manner that permits the Originating Site hospital to comply with applicable Conditions of Participation.

Medical Staff Bylaw Considerations

- The Originating Site Hospital Should Add a CBP “Process” to its MS Bylaws. That “process” usually
 - Enumerates or references the required elements of written telemedicine credentialing agreements
 - Identifies the tasks, if any, to be retained by Originating Site Medical Staff office and/or MEC (e.g., NPDB query, confirmation of malpractice coverage)
 - Spells out the process for review/approval of applications (e.g., ensure compliance with telemedicine agreement requirements, review by MEC, governing body approval)
 - Can also include a process for, e.g., referral of applicants to the Hospital’s “traditional” credentialing process, and denial of applications
- The Originating Site Hospital Should also consider adding a new Medical Staff category for distant site telemedicine practitioners
 - to clarify what such practitioners will (or will not) be obligated to do at the Originating Site (quality assurance, meetings, dues)

Additional Considerations

- Check Applicable Accreditation Entity requirements
- Check State Law-some states do not endorse credentialing by proxy

Conclusion

- Credentialing by proxy
 - Can be a useful tool
 - Can be implemented with relative ease, and
 - Can generate significant operational, clinical and financial benefits for both
 - Originating sites and their patients, and
 - DSHs and DSTEs.

NAMSS: Telemedicine Legal Considerations

Credentialing By Proxy

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NAMSS - ATA CREDENTIALING BY PROXY – A GUIDEBOOK

- ✓ Centers for Medicare & Medicaid (CMS)
- ✓ Accreditation Standards (TJC, DNV – GL, HFAP)
- ✓ State Regulations
- ✓ Medical Staff Bylaws
- ✓ Credentials Policy
- ✓ Telemedicine Clinical Privileges
- ✓ Contracts
- ✓ Quality Monitoring



Credentialing by proxy



Decreasing costs.



Parties to share information regarding credentialing decisions –
Communication is key to a successful telemedicine program.



Determine processes prior to institution of credentialing by proxy.



Peer review state statutes.



Confidentiality.



Originating site retains the ultimate authority over privileging
decisions regarding telemedicine-based practitioners.

Origination Site Credentialing Requirements

- Governing body and Medical Staff Bylaws Revisions to include telemedicine
- License to practice
- National Practitioners Data Bank Query (NPDB)
- Telemedicine privilege delineation (cannot exceed originating site privileges)
- Notification of privilege revisions
- Disciplinary action notification

Performance Information

- Maintain evidence of its internal review of each telemedicine practitioner's performance and quality.
- Provide information to distant site for periodic appraisal of its practitioners
- Minimum requirements: adverse events & complaints.
- Notify distant site of any action taken against a telemedicine practitioner which is classified as disciplinary action under the originating site's credentialing policies.



Internal Practices

- Medical staff determines services appropriate for telemedicine.
- Review agreement and practitioner files annually.
- Credentialing software requirements – determine tracking functions
- Communication with originating site – determine main contact
- Originating site accredited?
- Periodic review telemedicine services provided – MEC & board review
- Report to required bodies if disciplinary action is taken against practitioner
- Inform originating site of surveys - assist if questions. Surveyor may request copy of telemedicine contract (services and credentialing agreement)
- Quality monitoring as required (FPPE, OPPE, PPE)

Acronyms/Common Terms and Definitions

ACRONYMS

American Telemedicine Association (ATA)
Center for Medicare and Medicaid Services (CMS)
Conditions of Participation (CoPs)
Credentialing by Proxy (CBP)
Credentials Verification Organization (CVO)
Critical Access Hospital (CAH)
Distant Site (DS)
Distant Site Telemedicine Entity (DSTE)
Drug Enforcement Administration (DEA)
Educational Commission for Foreign Medical Graduate
Focused Professional Practice Evaluation (FPPE)
Healthcare Facilities Accreditation Program (HFAP)
Intensive Care Unit (ICU)
Joint Commission (TJC)
Medical Services Professionals (MSP)

COMMON TERMS AND DEFINITIONS

A

Accreditation ^B

Determination by an accrediting body (such as DNV-GL, HFAP, or the Joint Commission) that an eligible organization complies with applicable accreditation requirements.

Accreditation Contract ^B

The primary document that establishes the terms of the relationship between the organization and the accreditor.

Accreditation Manual ^B

An accreditor publication consisting of policies, procedures, and accreditation requirements relating to ambulatory care, behavioral health care, critical access hospital, home care, hospital, nursing care center, office-based surgery, and clinical laboratory and point-of-care testing. Organizations should use the manual that contains the set of accreditation requirements that is most appropriate to the primary focus or mission of the organization.

NAMSS-ATA Credentialing Proxy Guide



[ABOUT](#) [MEMBERSHIP](#) [EDUCATION](#) [CERTIFICATION](#) [ADVOCACY](#) [GATEWAY](#)

ADVOCACY

NAMSS-ATA CREDENTIALING BY PROXY GUIDE

NAMSS is pleased to introduce the [NAMSS-ATA Credentialing by Proxy Guidebook](#), a resource for navigating the credentialing process for practitioners providing remote/telemedicine services. The Guidebook includes a standardized Glossary of Terms, an overview of the existing credentialing process with a focus on telemedicine providers, a review of existing laws and regulations around telemedicine credentialing, a set of guidelines for creating a credentialing by proxy program, and a review of hurdles and potential solutions institutions often encounter with credentialing by proxy.

The Guidebook is the result of a multi-year collaboration between NAMSS and American Telemedicine Association (ATA). In 2017, NAMSS staff and ATA staff convened a joint task force of NAMSS and ATA members to develop a credentialing by proxy guide. Credentialing by proxy is a relatively new process by which hospitals using remote practitioners for telemedicine services can accept the remote hospital's credentialing work, rather than requiring the full traditional credentialing process for practitioners who may never step foot into that facility.

<https://www.namss.org/Advocacy/NAMSS-ATA-Credentialing-by-Proxy-Guide>

Benefits of telemedicine

- Enhanced level of care, even in high risk, remote locations.
- Provide quality and timely specialty care in areas without specialized locally based practitioners – patients do not have to choose between convenience and quality.
- Improved continuity of care and case management.
- Improved patient experience – care close to home.
- Reduced cost of care, including transportation
- Practitioner satisfaction - cross coverage.

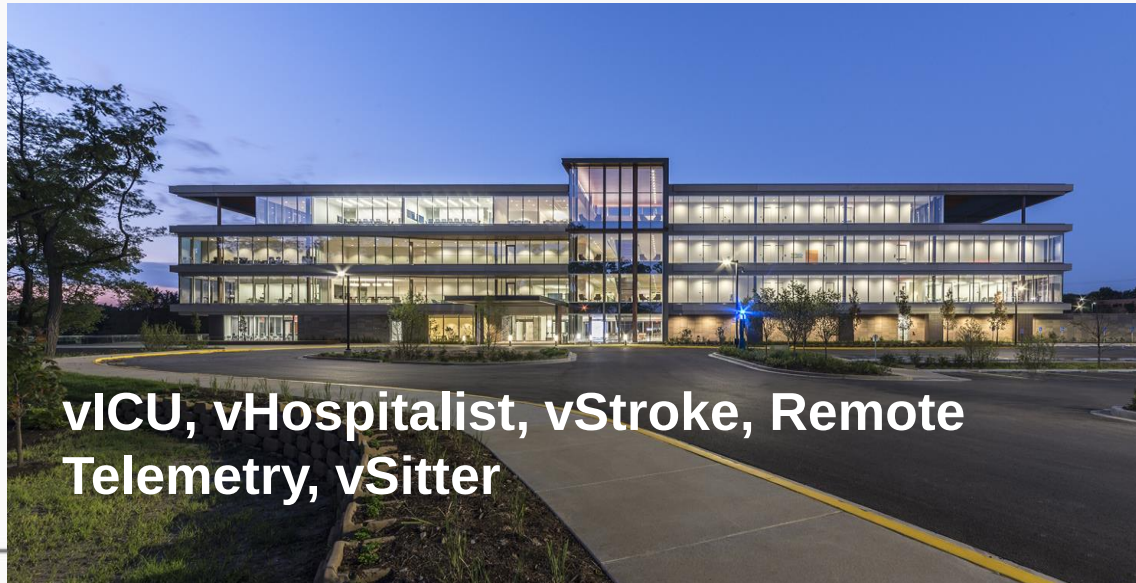


Vast Delivery Options

- **Live Consultations:** video conferencing between providers and directly with patients
 - Adult and Pediatric Critical Care to Include Resuscitation
 - Trauma/ED/Stoke
 - Mental Health/Crisis Care
- **Store and Forward:** asynchronous digital content exchange of images, test results and data
- **Remote Monitoring:** synchronous and asynchronous exchange of patient's biometric data
 - Blood Pressure, Blood Sugar, EKG
 - Mobility
 - Medication Management
- **mHealth:** personal device monitoring
 - Steps
 - Calories
 - Carbs

Mercy Virtual

- 2011 – 2019 Journey
 - CBP is new – no white papers available!
 - Began delegating within our own system; grew from 14 – 31 hospitals
 - Commercial customers beginning 2013



Mercy Virtual

- First
 - OS (originating site) and DS (distant site) are partners
 - Credentialing teams talk **prior to contract**
 - Contacts established (OS CVO?)
 - OS required forms
- Next
 - DS share your P&P; earn the OS trust!
 - Discovery – OS policies that may conflict with telemedicine providers; ex DEA, bylaws, CME
 - DOP's – Create new ones or use the DS's
 - OS – What will you enter in your credentialing software?
 - Dues & application fees
 - EMR access process

Mercy Virtual

- Ongoing
 - Quarterly meetings
 - New providers & updated lists
 - Establish reappointment process
 - FPPE/OPPE/PPE process
- **We are partners in providing safe care to our patients =
We can make this work!**

Introduction of Ann Mond Johnson

CEO, American Telemedicine Association

"WE ARE INSPIRED BY THE RESPONSE OF OUR MEMBERS AND REMAIN COMMITTED TO WORKING WITH HHS AND THE CDC TO STEM THE GROWING PUBLIC CONCERN AND COMBAT THE SPREAD OF COVID-19." - ANN MOND JOHNSON, CEO

Questions?

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NAMSS Resources

NAMSS:

- Phone: 202-367-1196 | E-mail: info@namss.org | education@namss.org
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Live Webinar Offerings

- ▶ Telemedicine Legal Considerations - 4/23
- ▶ Hope for the Best and Prepare for the Worst: a Medical Staff Perspective on Lessons Learned from COVID-19 - 4/28
- ▶ NAMSS COVID-19 Town Hall - 5/1
- ▶ AHLA Co-Hosted Webinar: Physician Late Career Policies Under EEOC Attack - 5/12

Tips of the Trade

- ▶ Tips of the Trade Webinar Bundle

Recorded Webinar Offerings