# Improving Access to Quality Medical Care Webinar Series

*Presented by*

The Southwest Telehealth Resource Center, and Arizona Telemedicine Program

## Land Acknowledgement

*We respectfully acknowledge the University of Arizona is on the land and territories of Indigenous peoples. Today, Arizona is home to 22 federally recognized tribes, with Tucson being home to the O'odham and the Yaqui. Committed to diversity and inclusion, the University strives to build sustainable relationships with sovereign Native Nations and Indigenous communities through education offerings, partnerships, and community service.*

# Welcome

- SWTRC region
- Fellow HRSA Grantees
- All other participants

The **the Arizona Telemedicine Program,** and **the Southwest Telehealth Resource Center** welcome you to this free webinar series.

The practice & deliver of healthcare is changing, with an emphasis on **improving quality, safety, efficiency, & access to care**.

**Telemedicine can help you achieve these goals!**

# Webinar Tips & Notes

- When you joined the webinar your phone &/or computer microphone was muted

- Time is reserved at the end for Q&A, please use the **Chat function** to ask questions

- Please fill out the post-webinar survey

- Webinar is being recorded

- Recordings will be posted on the ATP website
    - http://telemedicine.arizona.edu/webinars/previous

# Dr. Compliance: or how to stop worrying and love the 7 elements

**Carol Yarbrough**

Dr. Strangelove review (Nederland) - Films op Cine.nl

# Disclaimer

- The opinions expressed in this presentation and on the following slides are solely those of the presenter and not necessarily those of the organizations sponsoring this webinar. The organizations do not guarantee the accuracy or reliability of the information provided herein.

# The Title: We are Anxious!!!

I love the title! Very creative. I hope Gen X appreciates it.

This is my favorite title ever

Will this cover tele MH?

# And we wait:

## Letter to Governors on the COVID-19 Response

On January 22, 2021, Acting HHS Secretary Norris Cochran reached out to governors across the country to share details of the public health emergency declaration for COVID-19. Among other things, the Acting Secretary Cochran indicated that HHS will provide states with 60 days notice prior to the termination of the public health emergency declaration for COVID-19. To learn more about the extension and other flexibilities that are tied to the public health emergency declaration, please read the full text of Acting Secretary Cochran's letter.

**Read Full Text**

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SOUTHWEST TELEHEALTH RESOURCE CENTER TRC

# Link to refresh over and over today:

**ASPR** Administration for Strategic **Preparedness & Response**

https://aspr.hhs.gov/legal/PHE/Pages/default.aspx

Also a link to research re: behavioral health resources which are of course - declining:
https://www.ruralhealthresearch.org/alerts/512

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SOUTHWEST TELEHEALTH **TRC** RESOURCE · CENTER

# Today's Objectives

- Repeat the 7 elements of an effective compliance program

- Identify one element to take away and use today

- OIG updates on telehealth and what it means to us


- Also - Final thoughts on how to calendar your anxiety away re: PHE, CAA and telehealth

# The OIG's Top 10 Reasons for the 7 Steps

1. Safeguards organizations legal responsibility
2. Demonstrates to employees and community commitment to good corporate conduct
3. Identifies and prevent criminal/unethical conduct
4. Improve quality of patient care
5. Create a centralized source for healthcare regulations
6. Develops methodology/encourages employees to report problems
7. Develops procedures to allow prompt investigation
8. Initiates immediate and appropriate corrective action
9. Reduces orgs exposure to civil penalties and criminal sanctions
10. In some hospitals the OIG allows for a compliance program to be included in the cost (Not for government imposed or CIA)

# Step 1: Implement written policies, procedures and standards of conduct.

1. Code of Conduct required
2. AMA Code of Ethics: https://www.ama-assn.org/delivering-care/ethics/ethical-practice-telemedicine
3. Designating a compliance officer and compliance committee.
4. Compliance Officer/Director
   Sometimes organizations hire an attorney; better to have years of experience within healthcare who also has a Certificate in Healthcare Compliance (CHC): https://www.hcca-info.org/

# Step 2: The Committee
## How about a coder? Biller?

- Chief Financial Officer
- Chief Accounting Officer or Controller (if your organization has one)
- General Counsel
- HR Director
- IT Director
- Chief Information Security Officer or Chief Privacy Officer
- Head of Procurement (again, if your organization has one)
- Internal Audit

# Step 3: Conduct effective training and education.

- Work with HR during onboarding to train new hires/ cover annual training (synchronous)
- Implement a Learning Mgmt System to cover ethics, compliance, etc. (asynchronous – complete on own timeline by set dates

# Step 4: Develop effective lines of Communication

- Listserv
- Bulletins/newsletters
- Quarterly meetings with the Board (leadership), regularly scheduled meetings with unit directors

# Step 5: Conduct Internal Auditing & Monitoring

The Univ of Oregon has a good internal audit program published on its site:
- Selection
- Planning
- Fieldwork
- Reporting
- Follow-up

https://internalaudit.uoregon.edu/report/audit-process

# Step 6: Enforce standards via well-publicized disciplinary guidelines.

The OIG calls for the written standards of conduct to address the procedures for handling disciplinary problems and those who will be responsible for taking appropriate action. Intentional or reckless noncompliance is to be punishable with "significant sanctions," which can range from oral warnings to suspension, privilege revocation (subject to any applicable peer review procedures), termination or financial penalties as appropriate. Many organizations use progressive discipline.

Disciplinary Actions, HCCA Compliance 101, 4th Edition, 2016.

# Step 7: Respond promptly to detected offenses and undertake corrective action

- Establish a breach hotline or reporting structure
- When involving corrective actions (aka paying the government back for over-coding for example), the exact scope of the extent must be determined and then paid back to Medicare
  - Within 60 days
  - Lookback period is 6 years

https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/overpaymentbrochure50809textonly.pdf

# CMS' Compliance Tips



- https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/medicare-provider-compliance-tips/medicare-provider-compliance-tips.html

# The PHE and Federal (Medicare) Telehealth Waivers

- ## The PHE continues
  - Current end date: October 13, 2022
    - OMG THAT'S TODAY – Don't panic - Stop
  - 60 days' notice was NOT given to extend
    - (August 14 was the deadline)
    - The NEW end date is *most likely* January 11, 2023

# Current, Interim and Future Status

Non Beh Health Specialties

| During PHE<br>~~Until Oct 13, 2022~~<br>or Until Jan 11, 2023 | During 151 Days<br>~~Thru Mar 15 2023~~ or Jun 11, 2023 | Day 152<br>~~Mar 16 2023~~ or<br>Jun 11, 2023 |
|---|---|---|
| Home telehealth<br> 95 mod; POS 11, 19, 22 | Home telehealth<br> 95 mod; POS 11, 19, 22 | No home telehealth*<br> GY mod, POS 02 |
| G0463, Q3014 Reimb | G0463, Q3014 Reimb | No G0463 or Q3014 |
| Virtual supervision<br> FR mod | Virtual supervision<br> FR mod | None allowed<br> Comments to be subm |
| Audio only<br> 99441, 99442, 99443 | Audio only<br> 99441, 99442, 99443 | No audio only |

*Exception - Post-Op Visits which are *technically* not reimbursed

# Current, Interim and Future Status

Behavioral Health: Psychiatry, Psychology, Counseling

| During PHE<br>~~Until Oct 13, 2022~~<br>or Until Jan 11, 2023 | During 151 Days<br>~~Thru Mar 15 2023~~ or Jun 11, 2023 | Day 152<br>~~Mar 16 2023~~ or<br>Jun 11, 2023 |
|---|---|---|
| Home telehealth<br> 95 mod; POS 11, 19, 22 | Home telehealth<br> 95 mod; POS 11, 19, 22 | Home telehealth<br> POS 10 |
| No in-person rqmt | No in-person rqmt | In-person rqmt w/in 6 mo new pts; 12 mo est |
| Virtual supervision<br> FR mod | Virtual supervision<br> FR mod | Psych Virtual supervision |
| Audio only<br> Bill as if in clinic | Audio only<br> Bill as if in clinic | Audio only<br> Mod FQ, POS 10 |

# Current, Interim and Future Status

Provider Types

| During PHE ~~Until Oct 13, 2022~~ or Until Jan 11, 2023 | During 151 Days ~~Thru Mar 15 2023~~ or Jun 11, 2023 | Day 152 ~~Mar 16 2023~~ or Jun 11, 2023 |
|---|---|---|
| MD, NPP, Beh Hlth, PA, PT, OT, SLP | MD, NPP, Beh Hlth, PA, PT, OT, SLP | MD, NPP, Beh Hlth, PA |

# Back to the OIG

- [OIG report suggests telehealth fraud rare in Medicare](#)
  - "The OIG recommended the CMS strengthen monitoring of telehealth services, further educate providers on appropriate billing practices and identify telehealth companies that bill Medicare. It also suggested the CMS follow up on the high-risk providers highlighted in its report."
- This was updated today (feels so late-breaking!) – Oct 13, 2022
  - https://oig.hhs.gov/reports-and-publications/featured-topics/telehealth/
  - Go through the Plan and see what might apply to your practice – and do it!: https://oig.hhs.gov/reports-and-publications/workplan/active-item-table.asp#example=ftelehealth

# Amazing things (thanks HRSA!) re Licensure

AKA the Question Bane of Our Existences

- PowerBridge: https://www.providerbridge.org/about-provider-bridge/

- Multi-Discipline Licensure Project: https://licensureproject.org/

- FSMB (updated Sept 29, 2022)
    - https://www.fsmb.org/siteassets/advocacy/pdf/states-waiving-licensure-requirements-for-telehealth-in-response-to-covid-19.pdf

# Next New Thing To Chew Over (ad nauseum)

**FOLEY**
FOLEY & LARDNER LLP

Practice Areas    Sectors    Pe

HOME / INSIGHTS / DEVELOPERS TAKE NOTE: FDA ISSUES CLINICAL DECISION SUPPORT SOFTWARE FINAL GUIDANCE

## Developers Take Note: FDA Issues Clinical Decision Support Software Final Guidance

28 September 2022 | Health Care Law Today | Blog
Author(s): Kyle Y. Faget

# A little light reading to figure it out

Clinical Decision Support Software – FDA release of 9/28/22

"Contains NonBinding Recommendations"

"The use of the word should in Agency guidances means that something is suggested or recommended, but not required."

Thoughts? Best to follow it – there are slim to no other standards.

- https://www.fda.gov/media/109618/download

# Links

- I don't know who this company is or who wrote this webpage but it caught my attention with the number 7 (compliance?) and it made me laugh:
    - [Maximizing patient likes and minimizing staff dislikes about telemedicine: 7 Ways to do more of what Works and Less of what Doesn't (duh!).](#)

# QUESTIONS

# Improving Access to Quality Medical Care Webinar Series

Please check our websites for upcoming webinars
and events
http://www.telemedicine.arizona

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Please participate in this brief survey:

https://www.surveymonkey.com/r/2022Webinar-SWTRC-ATP