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Wisconsin's new telemedicine rules approved by the Medical Examining Board

Last month, the Wisconsin Medical Examining Board (MEB) approved new rules for the practice of telemedicine. For roughly nine months of 2016, the MEB Telemedicine Subcommittee worked through details of the new Med 24, ultimately offering a streamlined version of the first set of rules proposed in 2015. The new rules now await review by the Governor's office, the Joint Committee for Review of Administrative Rules and then move to the Wisconsin State Legislature for final approval. These final steps of the rulemaking process typically take a few months to accomplish, meaning the new rules could take effect by mid-2017.

Provisions of Wisconsin's new telemedicine rules primarily focus on the safety and relationship of the patients and physicians. Key components to accomplish safe medical interaction with patients who are not physically present include:

- The establishment of the patient-physician relationship in the telemedicine format.
- The physician who uses telemedicine in the diagnosis and treatment of a patient located in Wisconsin must hold an active Wisconsin medical license.
- The physician will be held to the same standards of practice and conduct, including patient confidentiality and recordkeeping, regardless of whether health care services are provided in person or by telemedicine.
- A Wisconsin licensed physician providing health care services by telemedicine is responsible for the quality and safe use of equipment and technology that is integral to patient diagnosis and treatment. The equipment and technology used will enable the physician to meet or exceed the standard of minimally competent medical practice.
- Treatment recommendations, including prescriptions, may be provided only after the physician has met the following requirements:
 - Informed consent;
 - The physician's name and contact information must be made available to the patient;
 - A documented patient evaluation has been performed which included a medical history, an examination or evaluation, or both, and diagnostic tests; and
 - A patient health care record is prepared and maintained.

- Telemedicine does not include the provision of health care services only through an audio-only telephone, email messages, text messages, fax transmission, mail or parcel service, or any combination thereof.

Ultimately, the focus of the new rules are to foster patient access to a safe high-quality health care system, regardless of distance and mobility. The current rules are supported by the Wisconsin Hospital Association, the Wisconsin Medical Society, the Rural Wisconsin Health Cooperative and representatives from multiple Wisconsin hospitals and health systems.

Godfrey & Kahn's Health Care Practice Group is committed to closely monitoring the finalization of the new rules.

If you have questions regarding the practice of telemedicine in the state of Wisconsin, please contact:

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- Your regular Godfrey & Kahn attorney.

The information in this article is based on a summary of legal principles. It is not to be construed as legal advice. Individuals should consult with legal counsel before taking any action based on these principles to ensure their applicability in a given situation.

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