



Evolving models of care: 8 risks to consider when diving into telemedicine

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To Your Health

U.S. faces 90,000 doctor shortage by 2025, medical school association warns

By Lenny Bernstein

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ALL PROD

February 8, 2017

Reduce Health-Care Costs, Small Businesses Tell Congress

Healthcare IT News

TO

Workforce

Burnout rampant in healthcare

Survey reveals 60 percent of healthcare workers experience burnout



PBS NEWSHOUR

HEALTH

Report: Aging population, more insured driving rise in health care spending

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Can telemedicine help?

TO

Burnout rampant in healthcare

Survey reveals 60 percent of healthcare workers experience burnout



PBS NEWSHOUR

HEALTH

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Patients embrace technology

72%

of adults are ok with
teleconsultation for
non-urgent care

- Intel Healthcare
Innovation Barometer

Patients embrace technology

82%

of young adults **prefer**
consultation with their
doctor via mobile device

- MD Live

Providers embrace technology

\$2,750

Savings per patient when using telehealth instead of in-person physical therapy when discharged after knee-replacement surgery

- Veritas study, conducted by the Duke Clinical Research Group

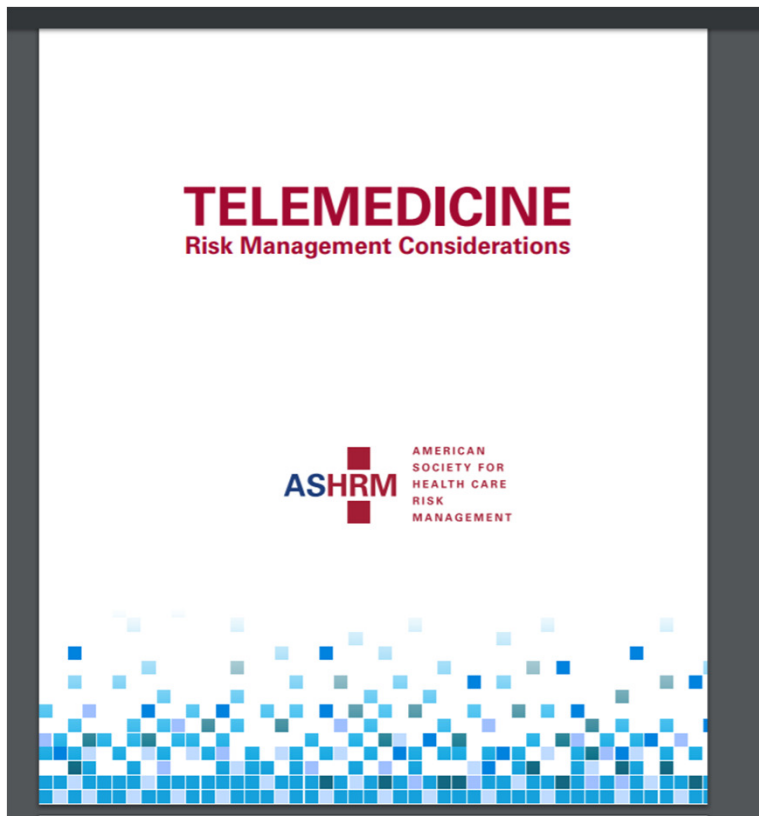
Telemedicine impact

- Improving access to care
 - Expanding access to specialty care
 - Bridging gaps in care
 - Providing more convenient care
- Enhancing the patient experience/engagement
- Improving productivity of care teams
- Reducing hospitalization/readmissions
- Expanding revenue sources
- Reducing health care expenditures



Potential for \$1.8 to
\$6 billion in savings
over 10 years

Win-win-win!

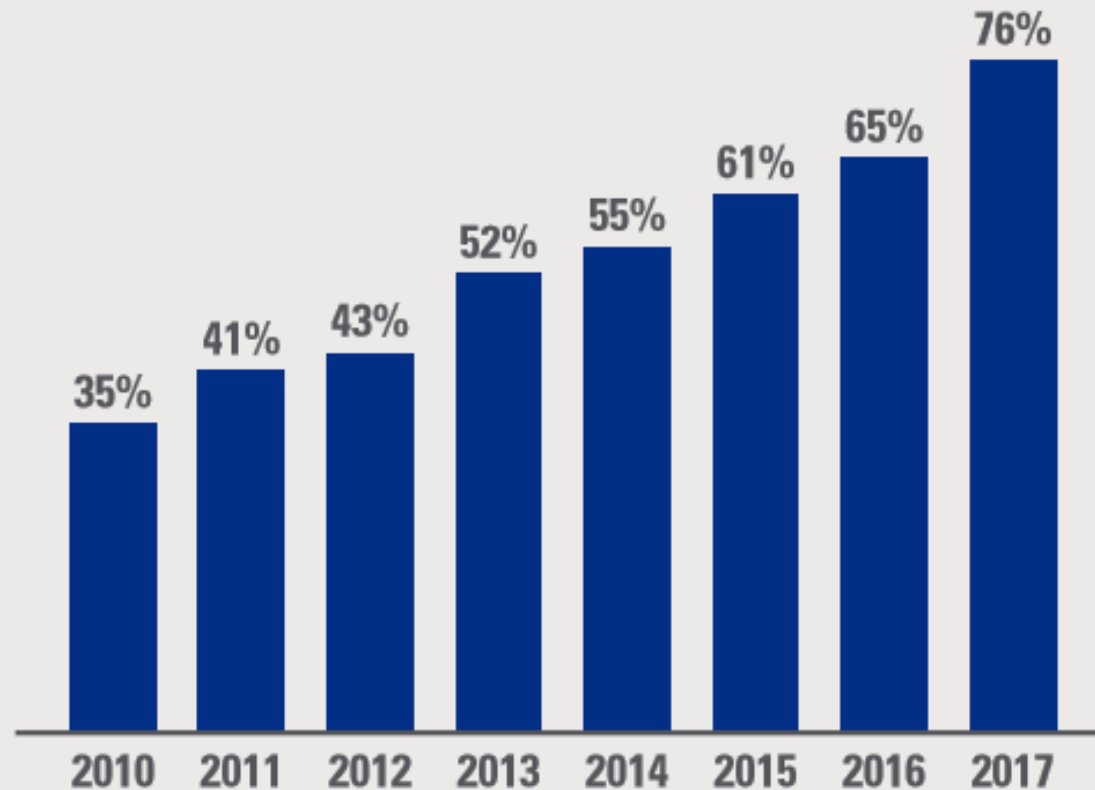


“Telemedicine is moving from its adolescence into early adulthood.”

- Technology is improving
- Costs are decreasing
- Reimbursement is increasing

Use of telehealth in hospitals has grown rapidly.

Percent of hospitals fully or partially implementing computerized telehealth system, 2010-2017



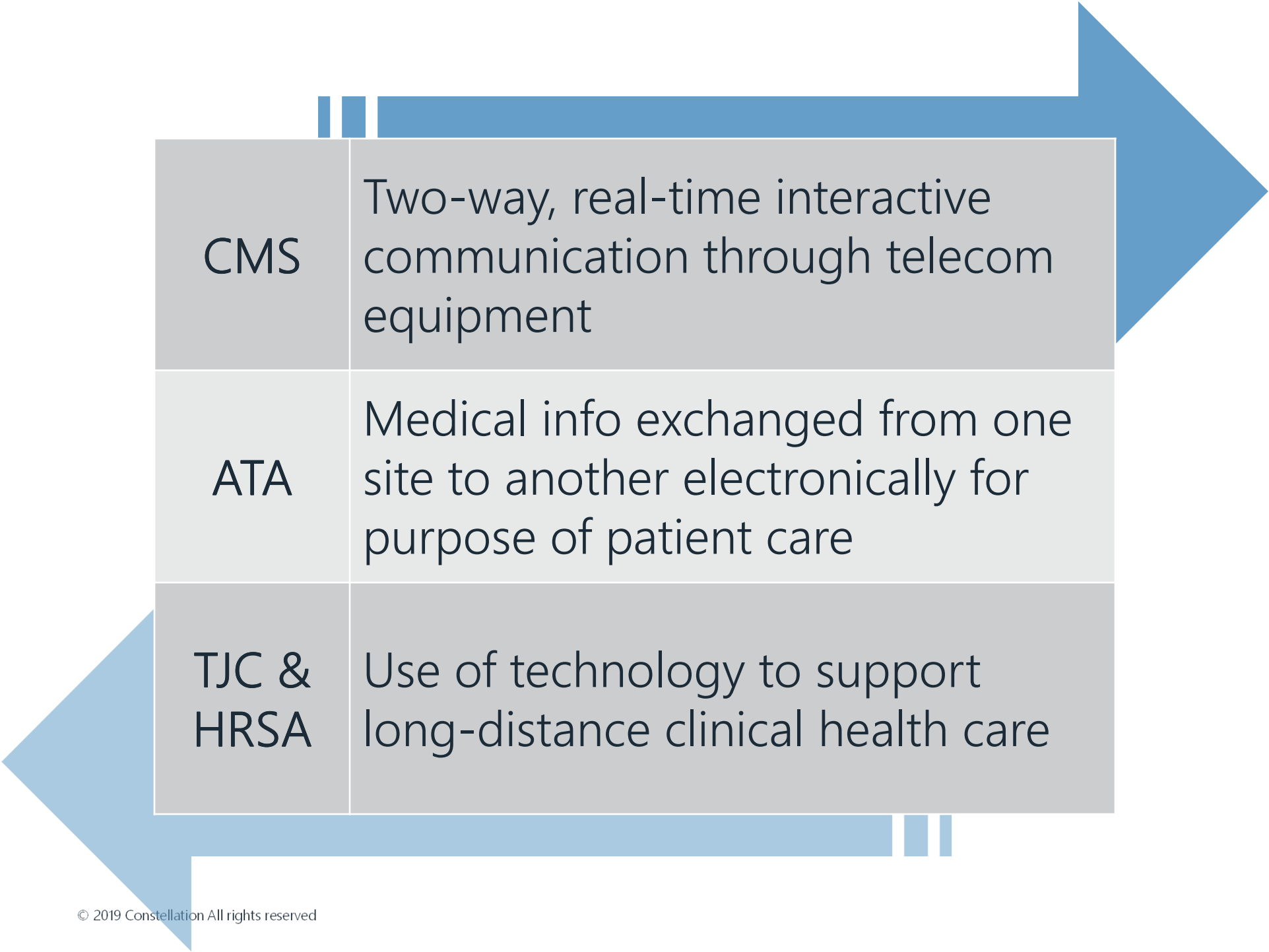
Source: 2011 to 2018 AHA Annual Survey IT Supplement





Defining telemedicine





CMS	Two-way, real-time interactive communication through telecom equipment
ATA	Medical info exchanged from one site to another electronically for purpose of patient care
TJC & HRSA	Use of technology to support long-distance clinical health care

Goal of today

Awareness



Eight questions



Eight questions

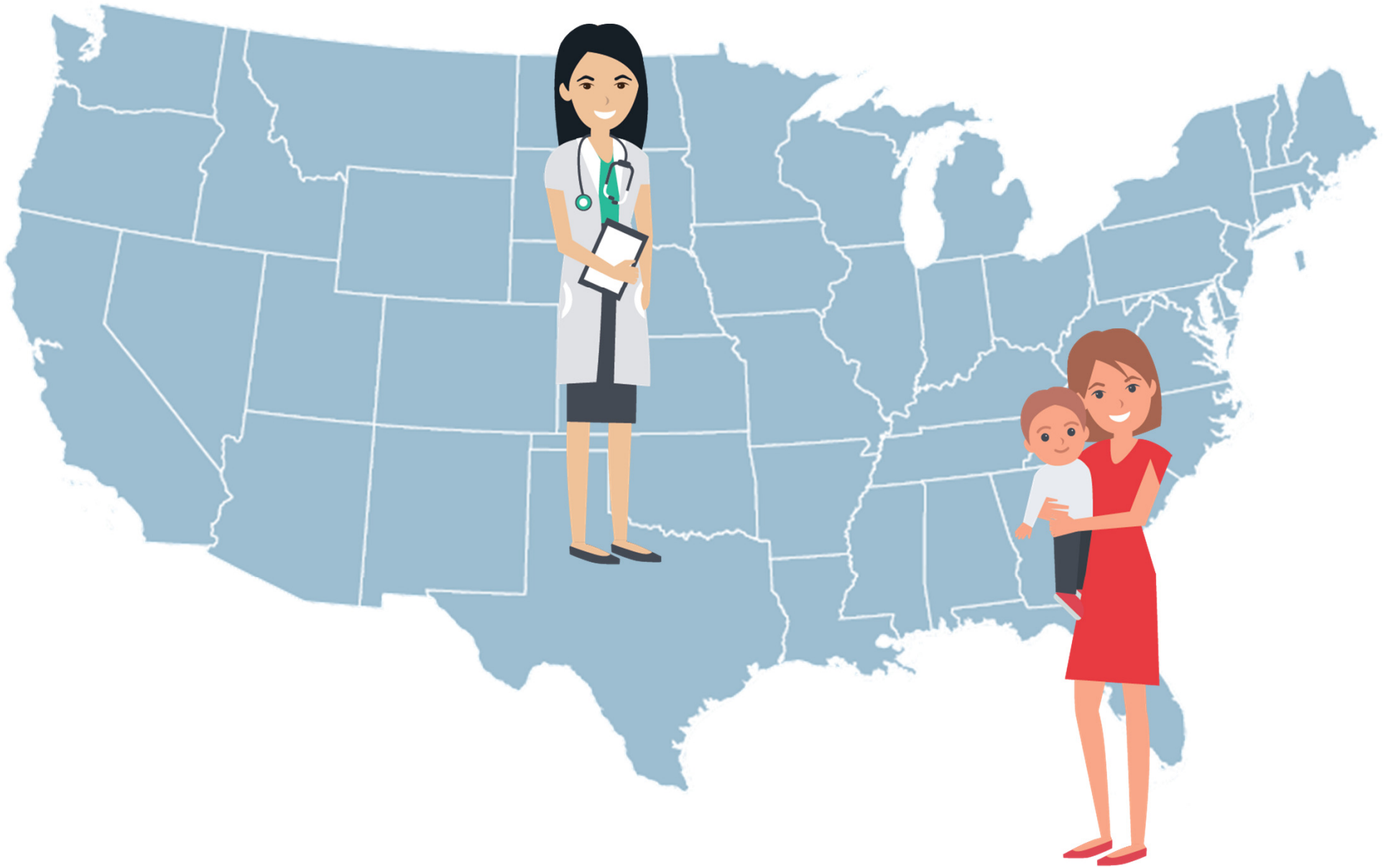
- 1.** Am I licensed and credentialed for this?
- 2.** Am I creating a physician/patient relationship?
- 3.** Am I providing the same standard of care as in person?
- 4.** Am I protecting privacy and security?

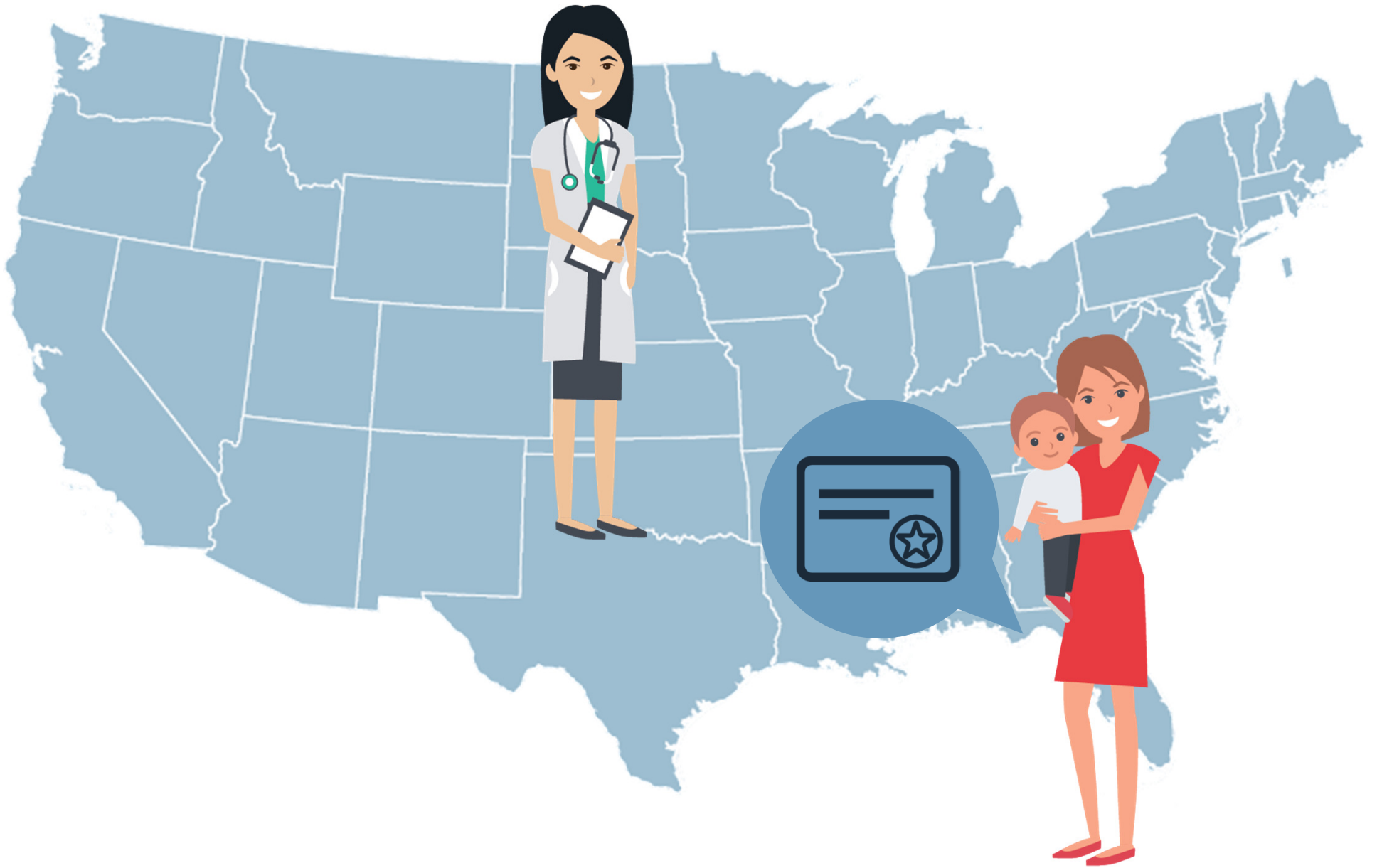
Eight questions

- 5.** How is my care getting into the medical record?
- 6.** Can I bill for this?
- 7.** Does my professional liability policy cover this?
- 8.** Do I need special informed consent?

1

Are we licensed and
credentialed properly?





The patient's state

- Rapidly evolving area of state regulation
- Some give telemedicine-only license
- Some give exceptions for consultations or emergencies

Center for Connected Health Policy:
<http://cchpca.org/>

Controlled substances

- Ryan Haight Act of 2008
 - Must conduct an in-person medical evaluation first
 - Slim exception for expert consult situation
- Questionnaires never ok
- Possibly subject to amendment?
- Possible special DEA registration?



- Other members of the care team

Case Example:

- Surgery practice crosses over state lines
- Surgery in one state
- Follow-up care by telemedicine, primarily by nursing team

Credentialing

- Facilities need to credential and privilege all distant telemedicine providers
- Medicare CoPs and Joint Commission allow some reliance on provider's hospital
- State laws may have credential requirements

Center for Connected Health Policy:

<http://cchpca.org/>

Credentialing

- Distant providers in the medical staff bylaws
 - Define their involvement in the medical staff
 - Think through performance review and peer review
 - Outline discipline and procedural rights



Risk

strategies

- Verify licensing in the location of the patient
- Verify credentialing with the originating site
- Check on others in the healthcare team

2

Are we creating
provider/ patient
relationship?



Case Example

- Website where users upload photos
- “Dermatologist” will identify and recommend treatment
- Most providers are overseas
- Diagnosis and recommendations are unreliable
- CEO says too bad-- no doctor-patient relationship because both sides are anonymous

Defining the P/P relationship

- No exact definition, states can differ
- Legal standard based on each circumstance
- Providers can usually refuse
 - But need to say so
 - No emergencies or discrimination

Defining the P/P relationship

Maybe

Someone needing help reaches out

Yes

Provider agrees to diagnose or recommend care

Significance

- Duty to treat under standard of care
- Own follow-up
- Can be sued for malpractice
- Can be sued for abandonment



Risk

strategies

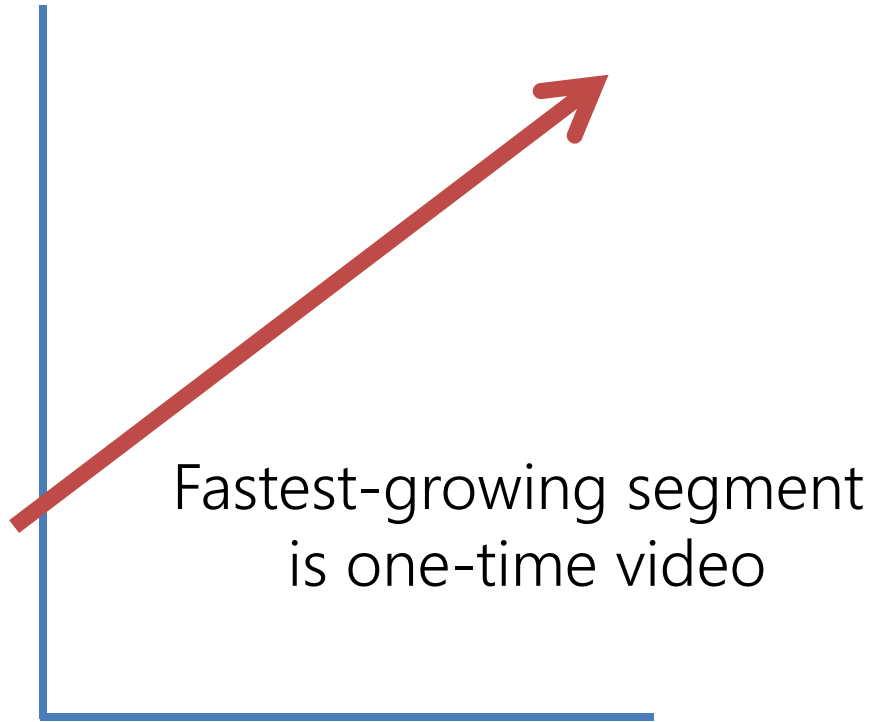
- Am we creating a provider/patient relationship?
- If not, is that clear to the patient?
- Are we educating on continuity of care
- Are we tracking orders?

3

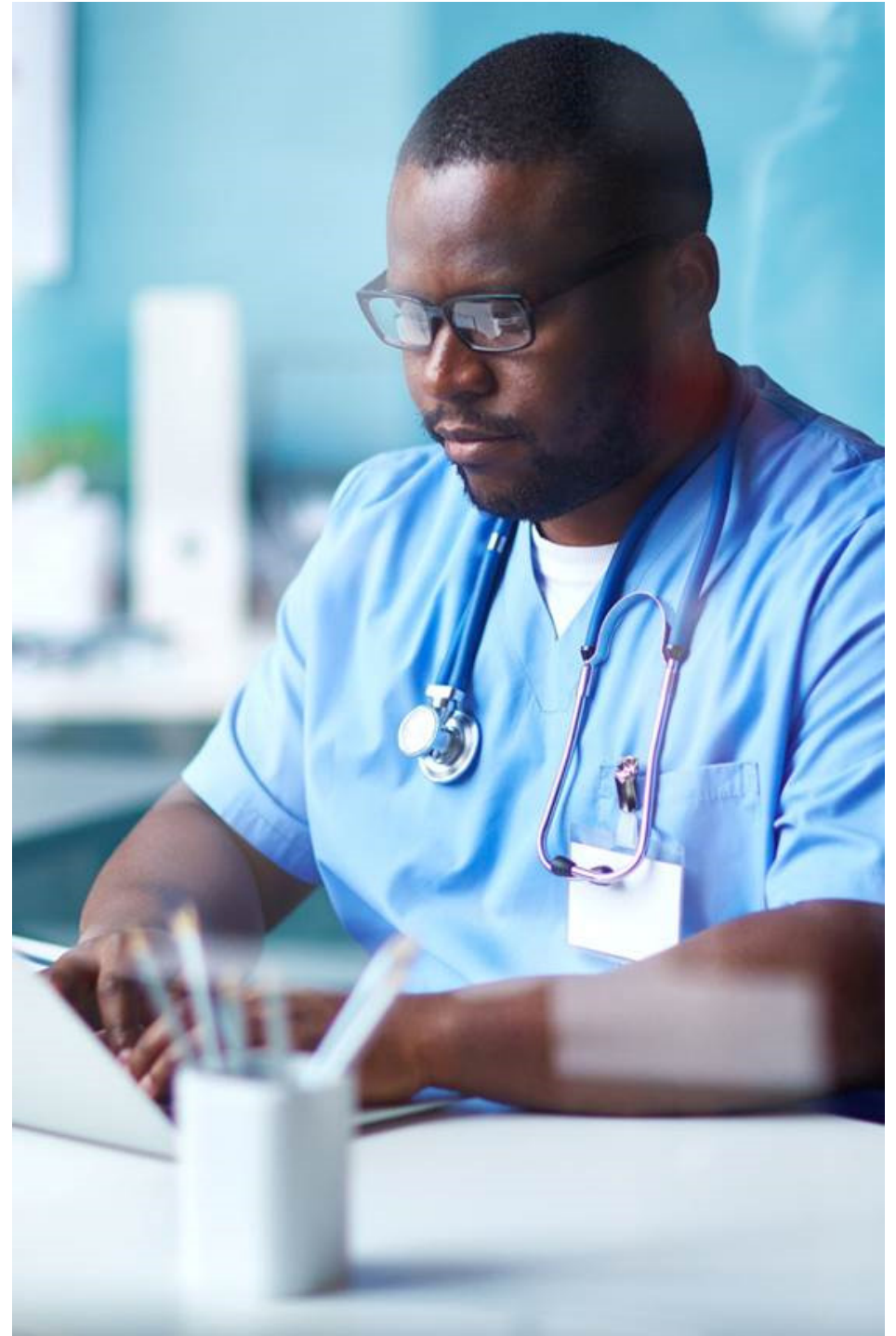
Are we seeing
the right patients
and conditions?

Case example

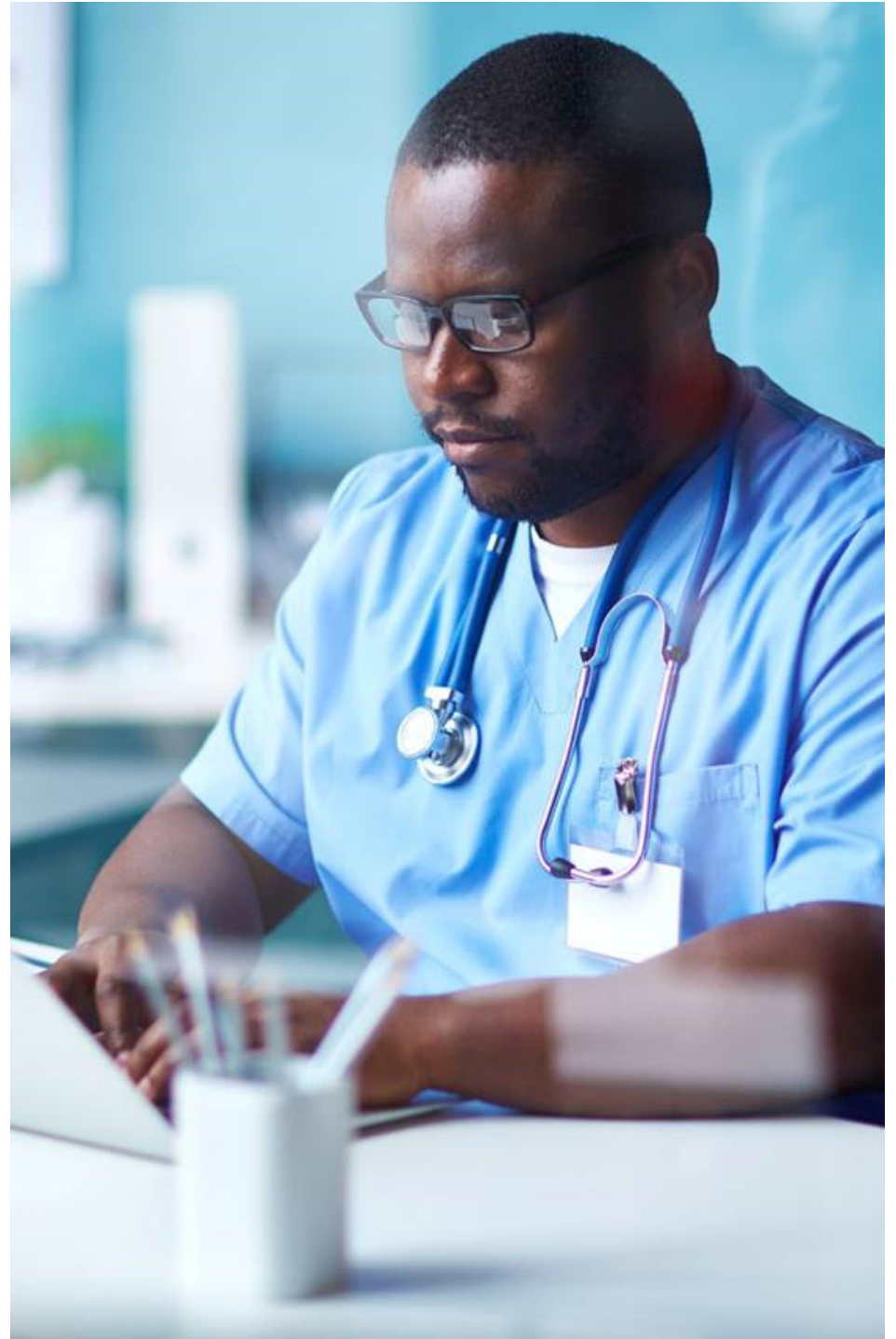
- E-visit for wheezing, shortness of breath to point of dizziness
- History of asthma
- Diagnosis: Asthma flare
- Missed diagnosis: Acute coronary syndrome



75%
of large employers
offer virtual visits



Can we care for
this patient and
this condition as
well as we could
in person?



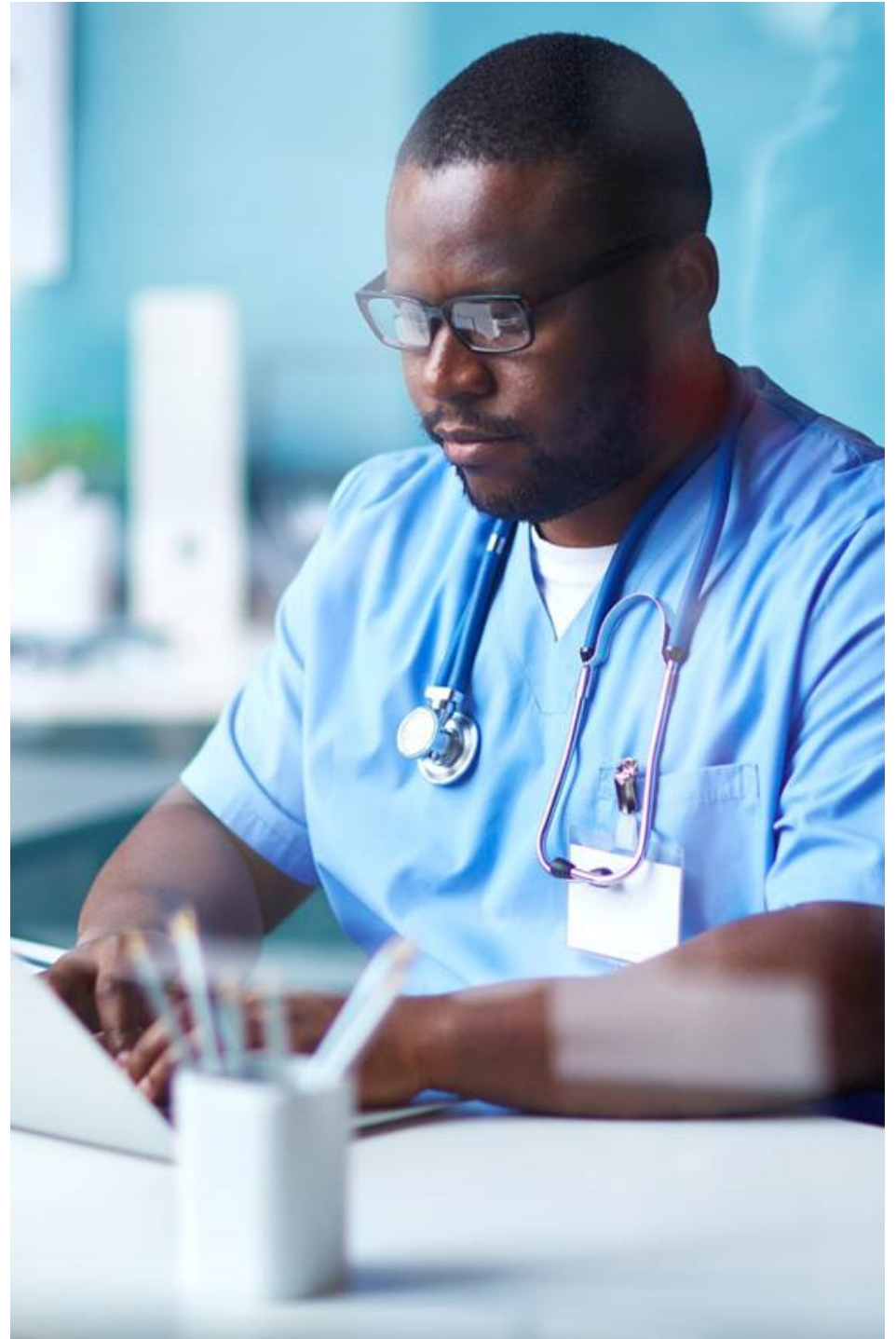
Acute conditions primary or urgent care

- Uncomplicated allergy/asthma
- Chronic bronchitis
- Conjunctivitis
- Genitourinary
- Low back pain
- Otitis media
- Rashes
- Upper respiratory infections

Chronic conditions primary care

- Mental illness
- Behavioral health
- COPD
- Asthma
- Congestive heart failure
- Diabetes
- Hypertension
- Overall wellness

How do I say
no?





Risk

strategies

- Do we have standards for patient selection?
- Do we have guidelines on appropriate conditions?
- Are providers empowered to say no?

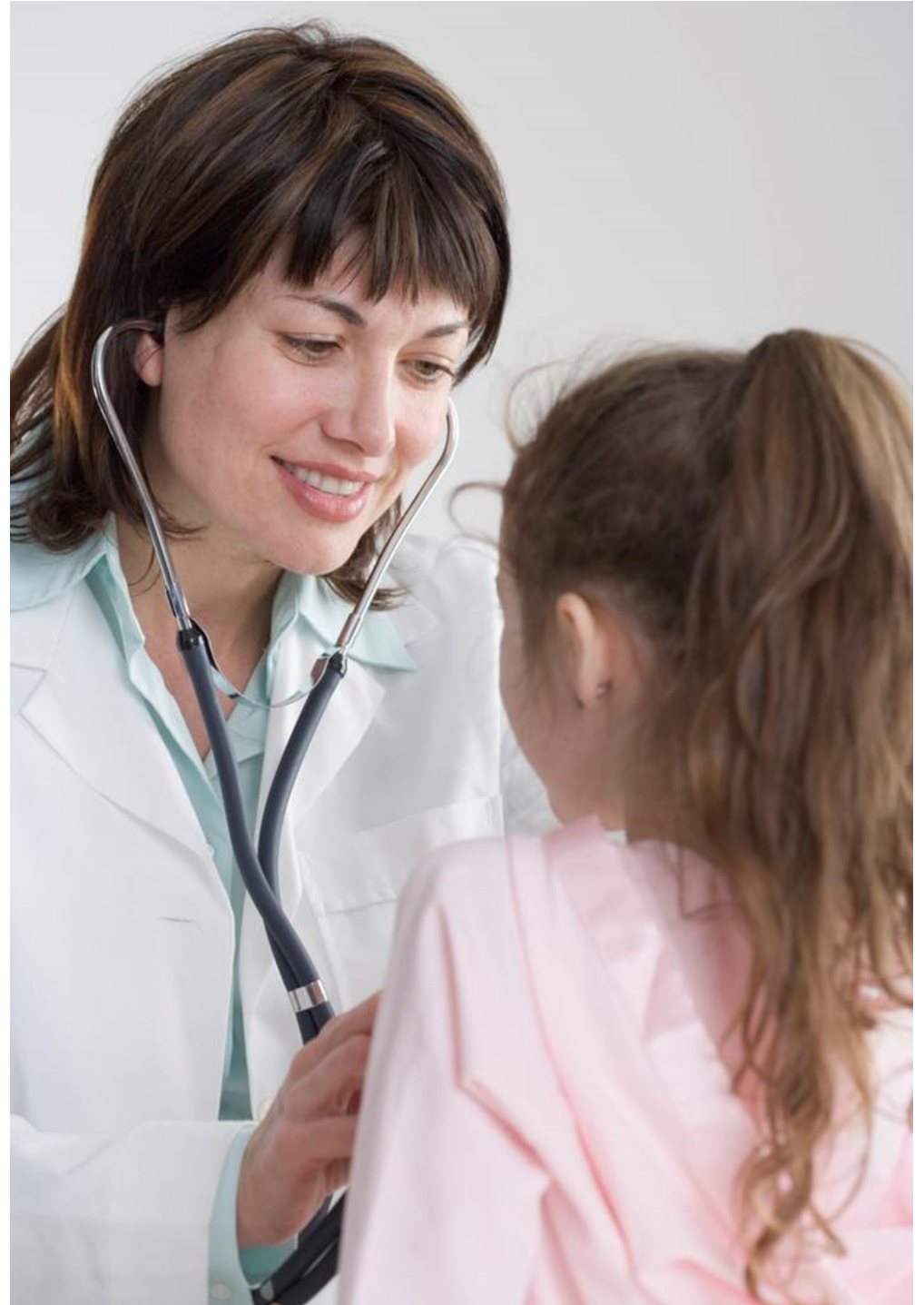
4

Are we providing the
right physical
environment?

Case example

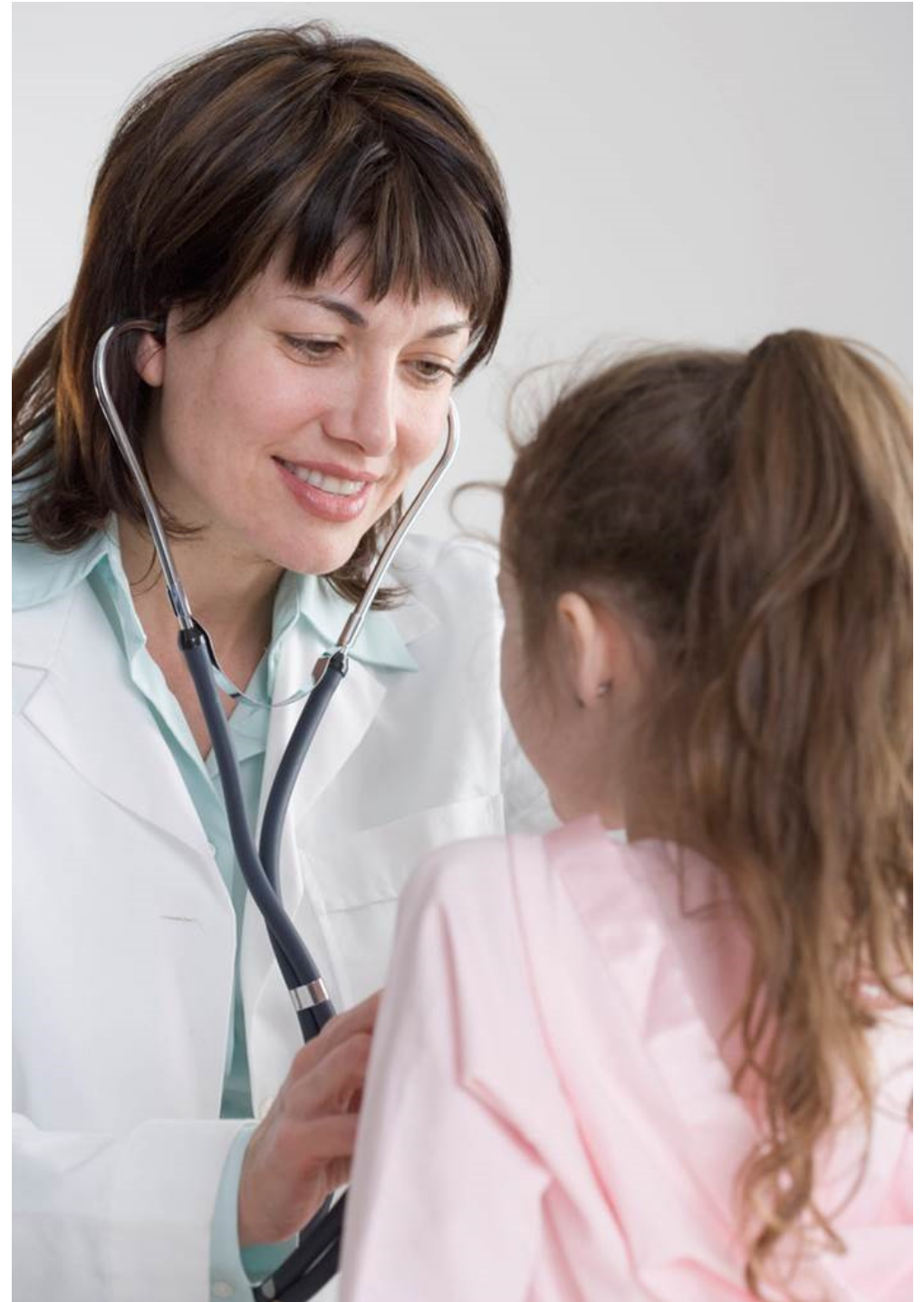
- E-visit with flu-like symptoms
- Home location is dark
- Image and sound are poor
- Provider is outside on patio with kids
- Diagnosis: Flu
- Missed diagnosis: Meningitis

Do we have the
same ability to
communicate
and treat as we
would in
person?



In person visit

- Adequate lighting
- Ability to hear
- Private
- Minimal interruptions
- Peripheral tools
- Medical records
- Other services (labs, pharmacy)



In person visit

- Adequate lighting
- Ability to hear
- Private
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Telemed visit

- Adequate lighting
- Ability to hear
- Private
- Minimal interruptions
- Peripheral tools
- Medical records
- Other services (labs, pharmacy)

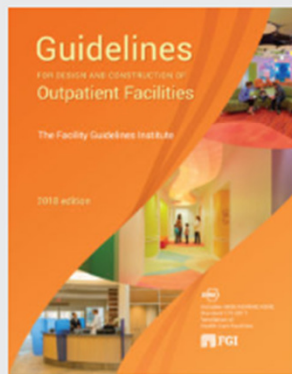
Guidelines for Design and Construction of Hospitals



Changes to the Hospital *Guidelines* clarify requirements and allow flexibility in some designs to support development of facilities that will be functional over the long term. Key changes affect requirements and recommendations for clinical telemedicine spaces; accommodations for patients of size; mobile/transportable units; sterile processing; and examination, procedure, operating, and imaging rooms. The document provides minimum design standards for general hospitals, freestanding emergency facilities, critical access hospitals, psychiatric hospitals, rehabilitation hospitals, children's hospitals, and mobile/transportable medical units.

To learn more about the content, review the [Hospital table of contents](#) and the discussion of [major additions and revisions](#), which outlines significant changes from the hospital requirements in the 2014 edition.

Guidelines for Design and Construction of Outpatient Facilities



The 2018 edition introduces the new *Outpatient Guidelines* document. Flexible enough to address a wide variety of outpatient facility projects, this inaugural publication was conceived to meet the needs of the U.S. health care industry and address the evolving nature of outpatient facilities. The document provides minimum design standards for a variety of outpatient facility types, including general and specialty medical services facilities, outpatient imaging facilities, birth centers, urgent care facilities, infusion centers, outpatient surgery facilities, freestanding emergency facilities, endoscopy facilities, renal dialysis centers, outpatient psychiatric facilities, outpatient rehabilitation facilities, mobile/transportable medical units, and dental facilities. Guidance is provided for applying the *Guidelines* to

outpatient facilities of numerous types, both freestanding and part of existing facilities, including those not specifically addressed in the document.



Is it safe to talk?

A woman with long dark hair, wearing a white fluffy robe, is sitting at a white laptop. She is blowing her nose into a white tissue. The laptop screen shows a male doctor in a white coat and stethoscope. The background is a bright, out-of-focus window with white curtains. Two dark blue rectangular boxes with white text are overlaid on the image.

What is our

webside manner?



Risk

strategies

- Can we always see, hear, and understand?
- Do we have access to required tools or records?
- Are we both in a private space?
- Have we thought through Webside Manner?

5

Are we protecting
privacy and security?



Case Example

- Family doc conferencing with patients online
- No encryption
- No HIPAA security certifications
- Some data on encounters is being stored in the cloud
- Data is breached

HIPAA says

YOU must protect
confidentiality, integrity,
and security

(no matter the platform or devices)

TELEMEDICINE Risk Management Considerations



“IT leadership at both the originating and distant locations should be consulted and involved in decision-making related to the IT systems that will be used to transmit and receive data.”

Vendors

- Demand proof of HIPAA and HITECH compliance
- Demand BAAs
- Where is the data backed up? (on premises vs. cloud)
- Who owns the data?
- Negotiate liability for breaches



Vendors

- Demand proof of HIPAA and HITECH compliance
- Demand BAAs
- Where is the data backed up? (on premises vs. cloud)
- Who owns the data?
- Negotiate liability for breaches

Devices

- Encryption?
- Passwords?
- Anti-virus and security?
- Plan if lost or stolen?





Risk strategies

- Are we using experts?
- Do we have agreements on HIPAA and HITECH?
- Do we know what happens in a breach?
- Are we training enough?
- Do we have encryption, passwords, etc. for all devices?

6

How is care getting into
the medical record?



Case Example

- Tele-radiology arrangement
- Radiologist and PCP view images together and discuss
- Neither creates a record
- PCP texts more history and radiologist responds via text
- Neither creates a record, neither saves texts

HC 291873
HealthCare Center

HISTORY RECORDS EXAMS DIAGNOSIS RESULTS PRESCRIPTIONS

PATIENT 132-54/B



DATE	TIME	PARAMETER	VALUE
10/10/2018	10:00	BP	120/80
10/10/2018	10:00	HR	72
10/10/2018	10:00	RR	18
10/10/2018	10:00	SpO2	98%
10/10/2018	10:00	Temp	37.5

PRESCRIPTION

Drug:

Dose:

Frequency:

Signature: *[Handwritten Signature]*

BY DATE	BY TIME	BY PERSON
10/10/2018	10:00	Dr. Smith
10/10/2018	10:00	Dr. Jones
10/10/2018	10:00	Dr. Brown

What goes in the record?



INDICATORS	STATUS
Indicator 1	OK
Indicator 2	Warning
Indicator 3	Critical

PARAMETER	VALUE
Parameter 1	100
Parameter 2	200
Parameter 3	300



What would we have from an in-person visit?

What did we rely on to make decisions and recommend treatment?

What do we need to support billing claims?

New items to include

- Mode of service delivery
- Time-stamps in multiple time zones
- Location of the patient
- Anyone else in the room with your patient
- Any technical difficulties

A photograph of a bright blue sky filled with fluffy white clouds. The clouds are scattered across the frame, with some larger, more prominent ones in the upper right and lower right areas. The sky is a deep, clear blue.

Where is the

record?

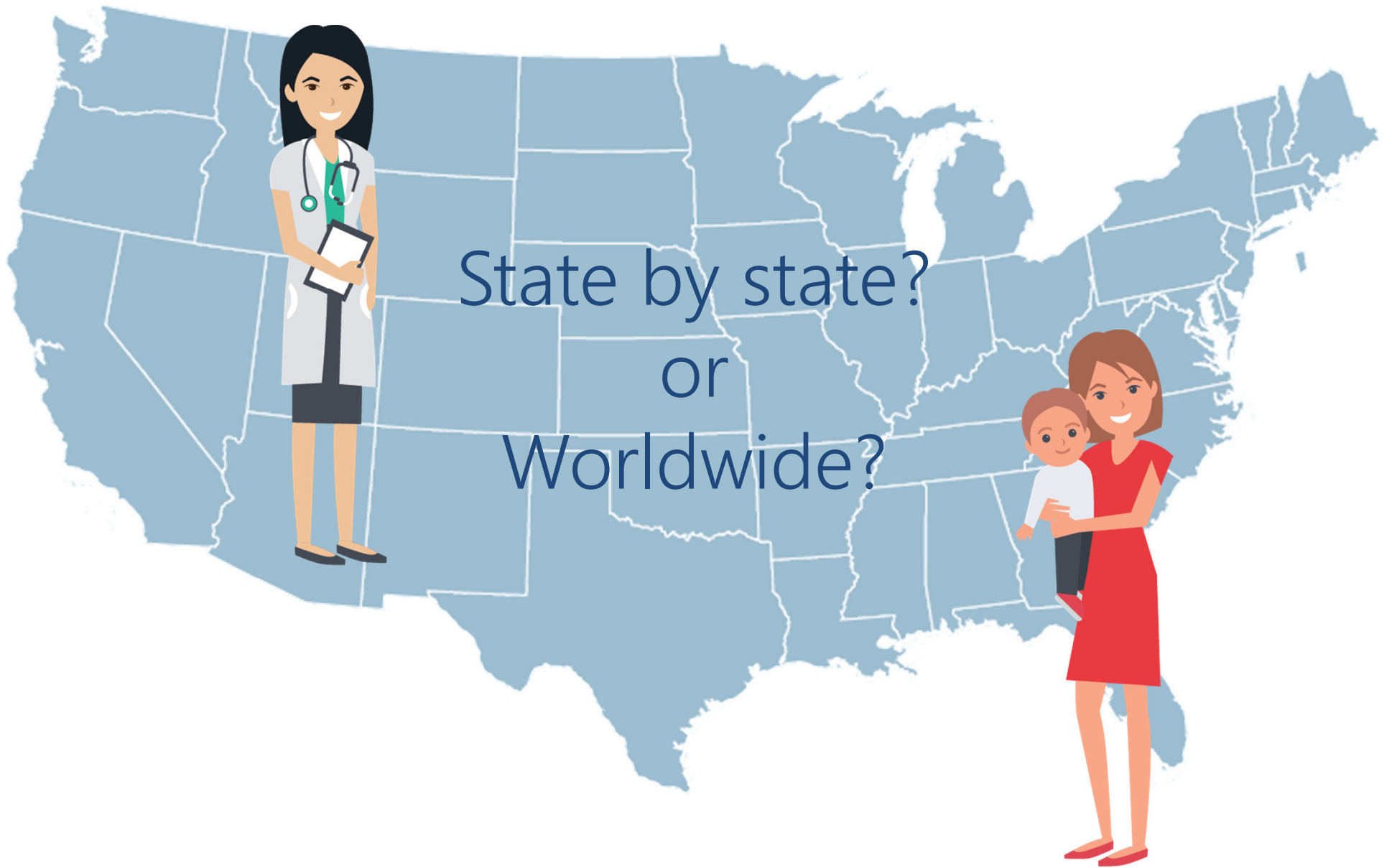


Risk strategies

- Do we have standards for record-keeping?
- Are we documenting what we would in person?
- Are we documenting any tech problems?
- Do we know how to get access to records?

7

Does our professional liability policy cover this?

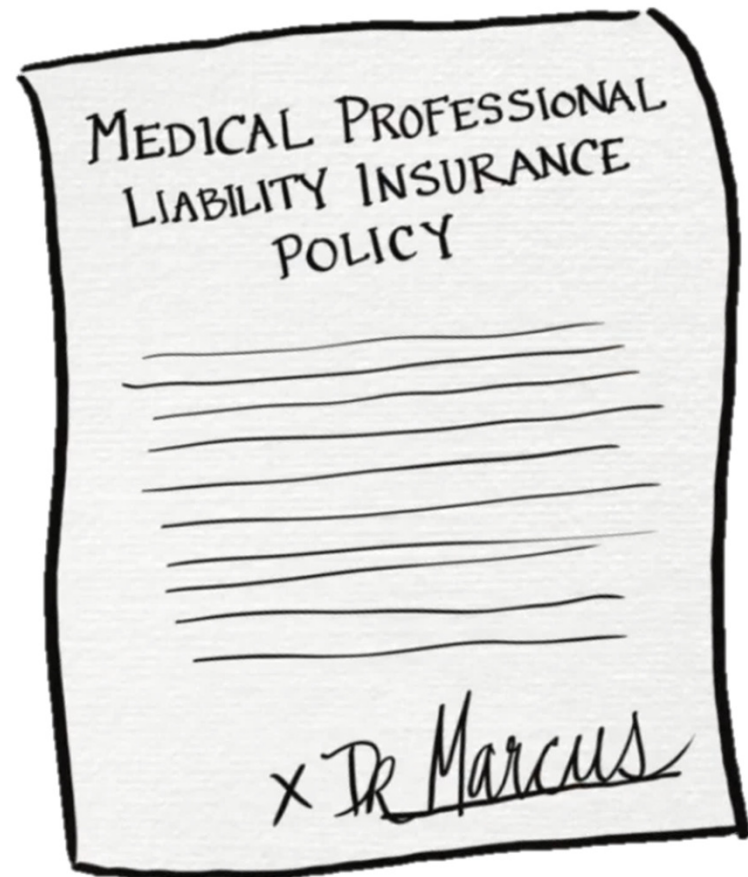




Where will the
claim arise?

Insurance issues

- Are we staying within our scope of practice?
- Do we need cyber liability coverage?
 - You might already have coverage
 - Which policy is triggered?



TELEMEDICINE Risk Management Considerations



“At the very least, currently existing insurance policies should be reviewed with counsel, the insurance broker and underwriting to determine what if any gaps in coverage are created by the addition or expansion of telemedicine services.”



Risk

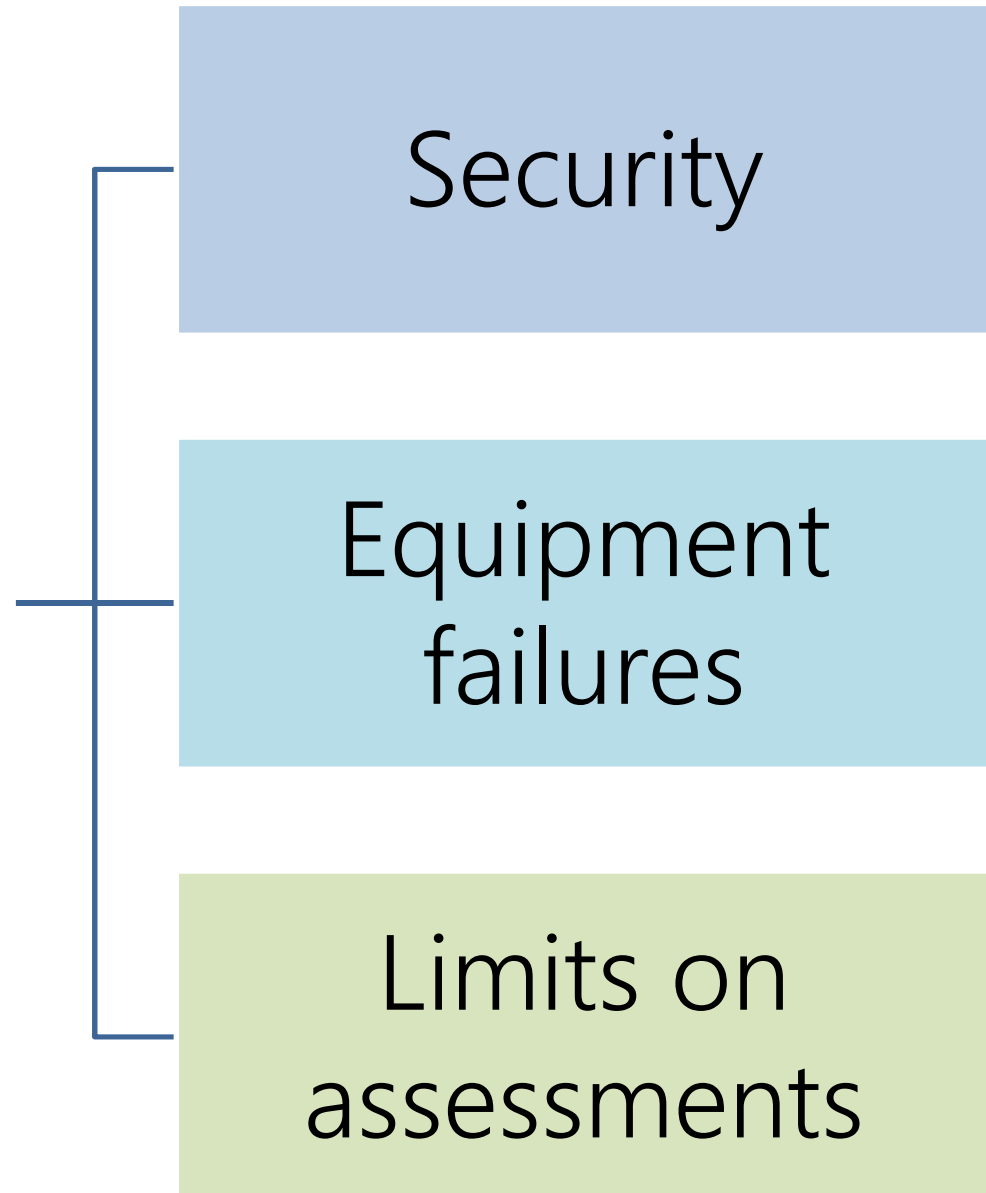
strategies

- Have we verified what our carrier will cover?
- Are any providers going outside of their scope?
- Are we comfortable with out-of-state claims?
- Do we need cyber coverage?



Do we need special
informed consent?

Unique
issues





Case Example

- E-visit with shortness of breath and chest discomfort
- Technology difficulties during the visit
- Patient does not seek other care – spends hours trying to re-connect (thinks provider is too)

Consent form

- Description of telemedicine care
- Types of transmissions permitted (e.g. prescription refills, scheduling, education)
- Privacy and security risks and safeguards
- Technical failure risk and plans
- Risks, benefits, alternatives
- Patient agrees that physician determines if this care is appropriate for telemedicine
- Where to go for ongoing care



Risk

strategies

- Do we have a consent plan?
- Can our vendor help?
- Are we managing expectations about care?



Closing thoughts



Critical success factors

Don't force it

Critical success factors

- Leadership engagement
- Program champions
- Internal marketing
- External marketing
- Implementation team
- Learn from mistakes

Monitor success





Telemedicine

- Good for patients
- Good for care teams
- Good for business

Resources

AHA Center for Health Innovation Telehealth www.aha.org/center/emerging-issues/market-insights/telehealth

American Telemedicine Association (ATA) www.americantelemed.org

Center for Connected Health Policy www.cchpca.org

Federation of State Medical Boards (FSMB), www.fsmb.org

Interstate Compacts:

- Interstate Medical Licensure Compact <https://imlcc.org/>
- Nurse Licensure Compact <https://www.ncsbn.org/nurse-licensure-compact.htm>

Contact us



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