



Telemedicine Benefits: Are You in Compliance?

November 2, 2017

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Speakers

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Director, Global Public Policy, Walmart
- Christine Richardson
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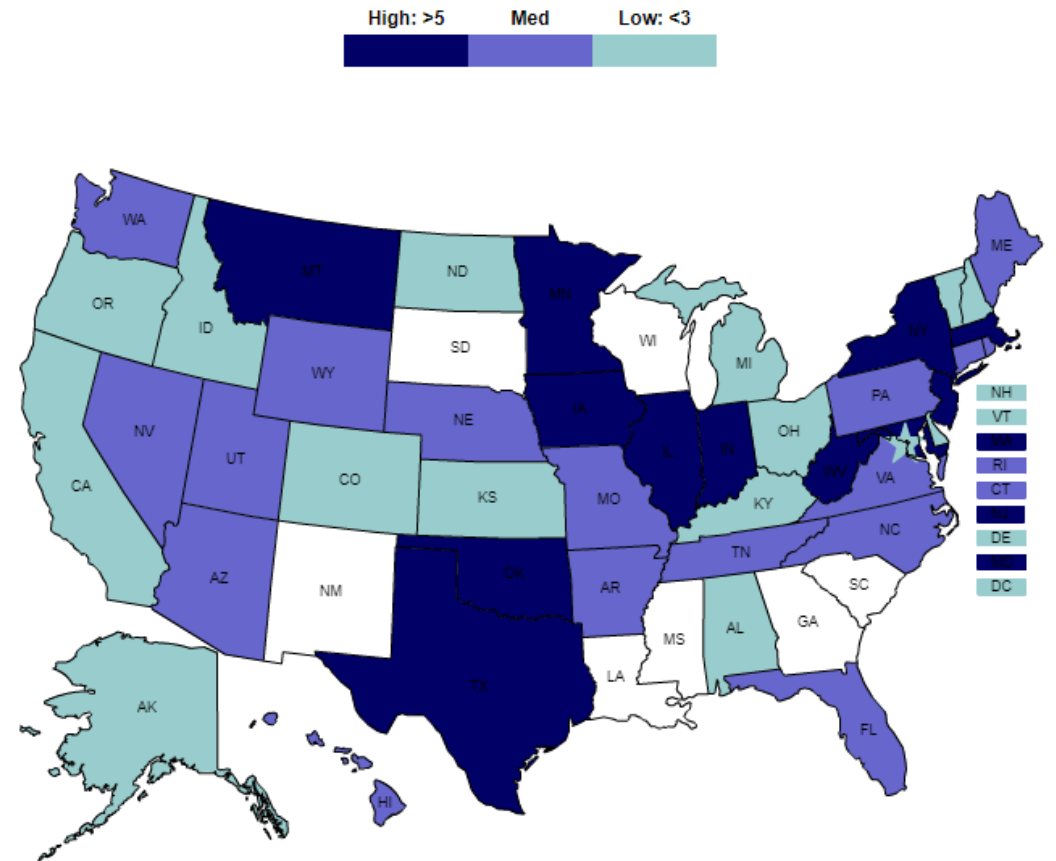
Agenda

- Telemedicine in the States: A Lay of the Land
- Walmart's Implementation of Telemedicine Benefits for Employees
- Telemedicine Compliance Issues
- Questions?

Telemedicine in the States: A Lay of the Land

- 45 States were active
- 234 bills related to telemedicine
 - Definition of “telehealth” or “telemedicine”
 - Licensure requirements
 - Practice guidelines
 - Reimbursement issues

2017

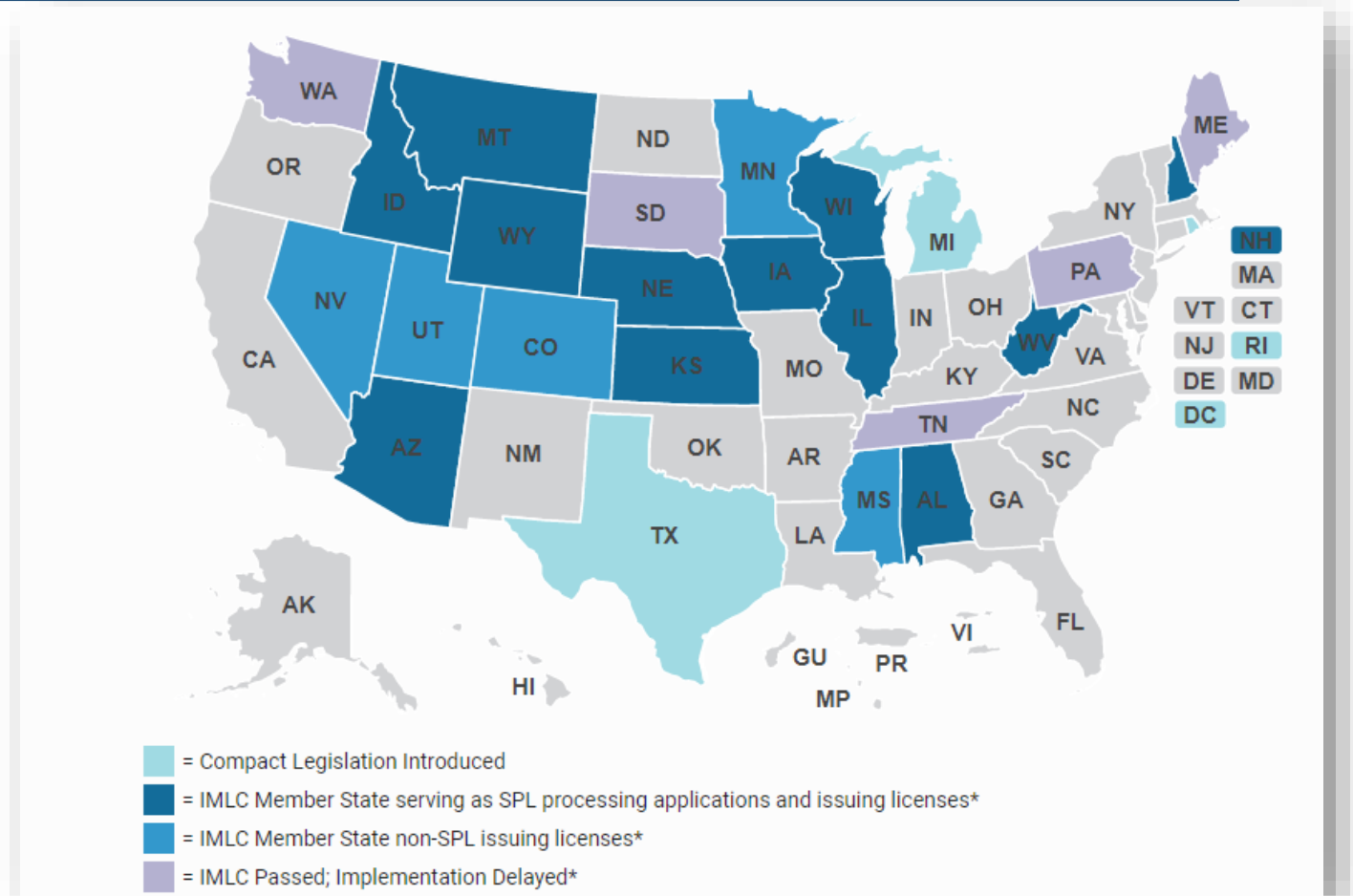


Telemedicine in the States: A Lay of the Land

- 9** State medical boards require special telemedicine license
- 29** States with informed consent requirements
- 35** States with private payer reimbursement policies

Interstate Medical Licensure Compact

- Agreement between 22 states and 29 Medical and Osteopathic Boards in those states
- Licensed physicians can qualify to practice across state lines (in participating states) if they meet the agreed upon eligibility requirements
 - About 80% of physicians meet the criteria
- Expedited process—prevents having to sit for a licensing exam in each state
- [Similar compact for nurses](#)



Source: www.imlcc.org

Telemedicine in the States: A Lay of the Land

- In 2017, Texas became the last state (of those with telemedicine laws on the books) to end the requirement of an initial in-person visit to establish the patient-provider relationship
- Technology-neutrality continues to be an issue
 - Audio-visual communication is permitted in virtually all telemedicine legislation, but other alternatives are not always available
 - Option of audio concurrently with store-and-forward technology often permitted
 - Audio-only rarely acceptable
 - Email or internet questionnaire: never
 - Issue with connectivity and people having the ability to access the technology required to use telemedicine
- States to watch in the next year:
 - Delaware, Pennsylvania, New Jersey (rule making), and Texas (rule making)

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Telemedicine — Potential Federal Implications

Health Plan — ERISA

Any plan maintained and funded by an employer that provides medical benefits or benefits in the event of sickness, unless benefits are limited to referrals and general information. “Health Plans” are subject to ERISA.

Group Health Plan — COBRA/HIPPA

A Health Plan that provides benefits relating to the diagnosis, cure, mitigation, treatment, or prevention of disease, unless limited to general good health. “Group Health Plans” are subject to COBRA, HIPPA, and GINA, as well as ACA (unless they provide only Excepted Benefits).

Excepted Benefits — ACA

Plan benefits limited to incidental medical care (e.g., LTD, AD&D), limited-scope benefits generally nonintegrated with other benefits (e.g., dental, vision coverage), and non-coordinated coverage limited to a single contingency (e.g., critical illness). “Group Health Plans” providing only “Excepted Benefits” are exempt from ACA’s insurance reforms.

Telemedicine — Potential Federal Laws

- Employee Retirement Income Security Act of 1974 (ERISA)
 - If it is a Health Plan, it is subject to ERISA and is required to meet all ERISA obligations (such as reporting, documentation, communication and duty).
- Health Insurance Portability and Accountability Act (HIPAA):
 - Any medical information must be safeguarded in compliance with HIPAA, which limits communications between the group health plan and the employer.

Telemedicine — Potential Federal Laws (cont.)

- Consolidated Omnibus Budget Reconciliation Act (COBRA):
 - Group Health Plans subject to COBRA must provide notice, continuation rights and/or special enrollment periods if participants experience certain losses in eligibility or lifecycle events (such as termination, a change in dependents, or a loss of spousal coverage).
- Genetic Information Nondiscrimination Act (GINA):
 - GINA prohibits intentional collection of “genetic information” by employers unless part of a “voluntary” health plan, and prevents employers from providing certain participation incentives, making underwriting decisions based on genetic information, or otherwise using genetic information in employment decisions.

Telemedicine — ACA Compliance

- The Affordable Care Act (ACA) applies to all Group Health Plans, unless they provide only “Excepted Benefits.”
- All Group Health Plans must provide Essential Health Benefits (or minimum value in the case of a large plan) and imposes a prohibition on annual or lifetime limits on medical benefits under a Plan.
- If offered as part of an ACA-compliant medical plan, the benefits will be integrated for compliance purposes.
- However, if eligibility for telemedicine benefits differs from medical plan eligibility, the employer may be liable for the Shared Responsibility Tax or Department of Labor sanctions.
 - For example, if the employer pays for 10 general practice telemedicine visits per year for all current service providers, employees not eligible for coverage under the employer plan, such as new employees or ones covered by a collectively bargained plan, will receive only noncompliant health benefits.

Telemedicine — Mitigating Risk

Solution One

Integrate telemedicine into “Group Health Plan.”

Solution Two

Negotiate contractual arrangements to mitigate risk.

QUESTIONS?



Driven By and For Large Employers