DECEMBER 9-10, 2021

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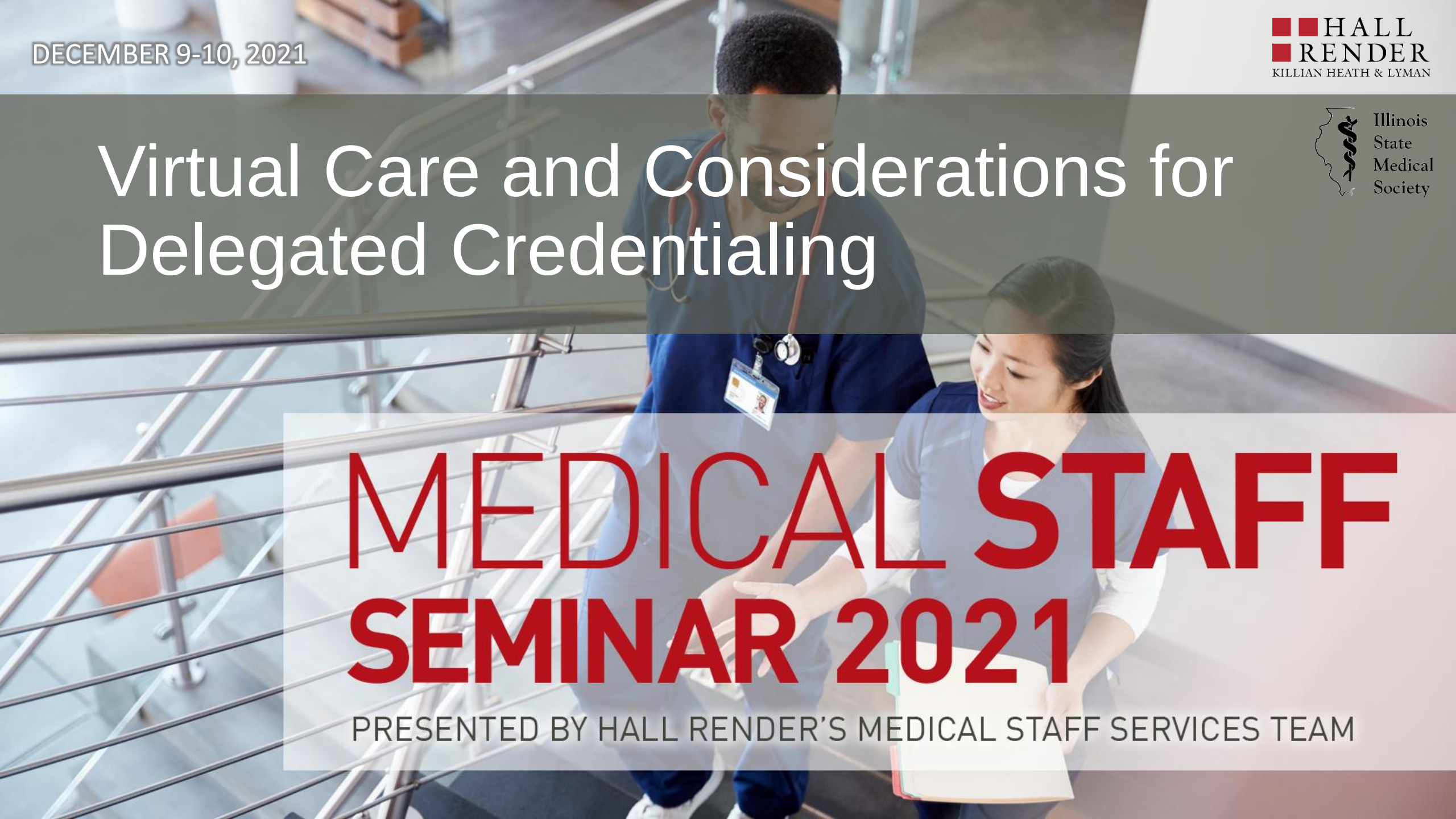
Illinois State Medical Society

Virtual Care and Considerations for Delegated Credentialing



MEDICAL STAFF SEMINAR 2021

PRESENTED BY HALL RENDER'S MEDICAL STAFF SERVICES TEAM

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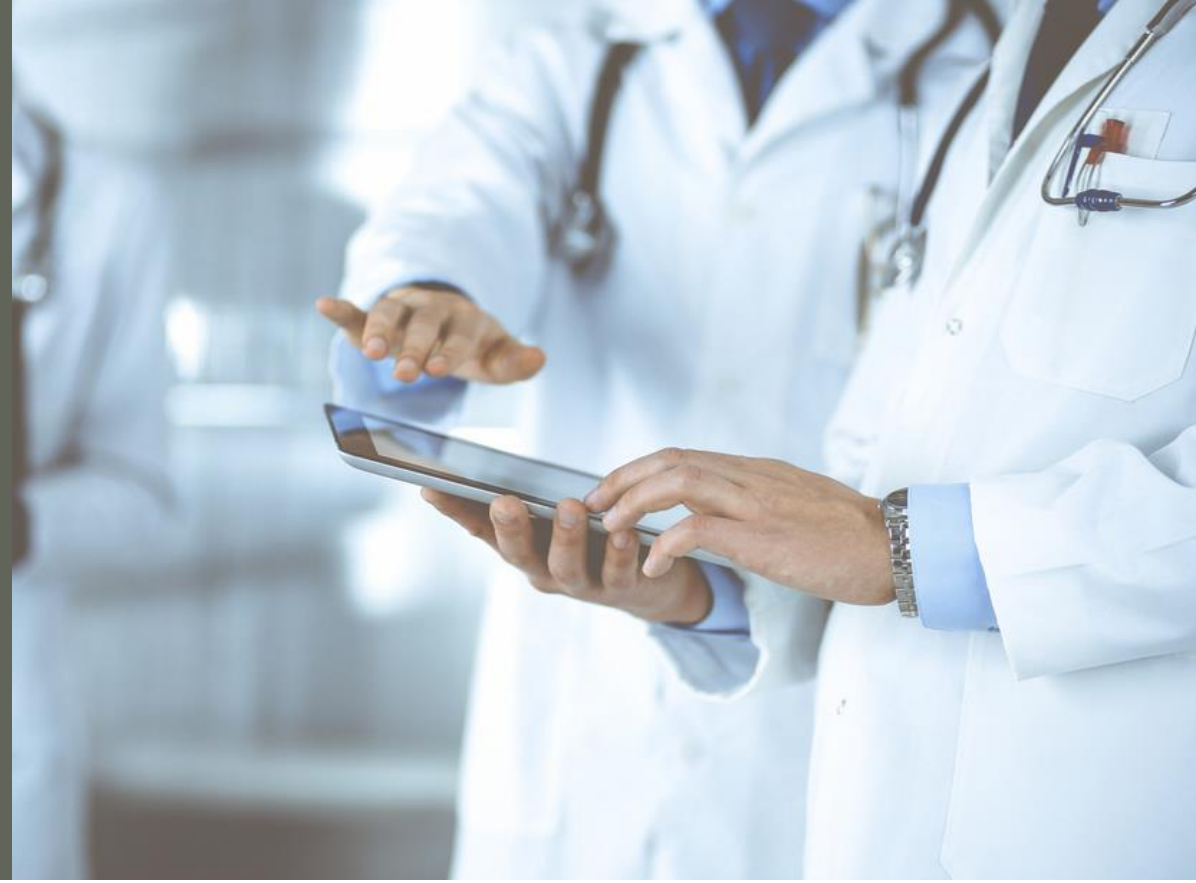
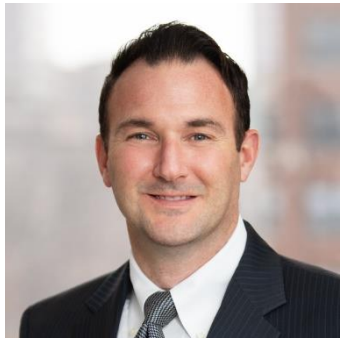


Presenter Info



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- **DISCLOSURE**: Mayo B. Alao, Brian C. Betner, Erin M. Drummy, Christopher C. Eades, and Scott Geboy have indicated that they do not have a current or recent significant financial interest or affiliation with any manufacturer of any commercial products or providers of any commercial services that may be discussed or that may have an impact on this presentation or with any corporate organizations offering financial or educational grants for this continuing medical education activity.
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Discussion Topics

- Virtual Care State of Affairs
- Delegated Credentialing Requirements
- Delegated Credentialing Best Practices
- Additional Considerations

The Virtual Care "Perfect Storm"

- **During pandemic: High demand**
  - "Over the first 8 months of the pandemic, utilization of telehealth services in Medicare FFS sharply increased from about 325,000 services in mid March to a peak of nearly 1.9 million services in late-April." (Per Medicare FFS claims submitted through 11/13/2020)

- **Post pandemic: Sustained demand**
  - 87.82% of Americans "want to continue using telehealth services for non-urgent consultations after COVID-19 has passed."
  - 79.85% of Americans "say it is possible to receive quality care through a telehealth/telemedicine appointment" (Sykes Poll, 2021)
  - "Cigna says it expects demand for virtual care…to remain high post-pandemic." (Healthcare Finance, May 13, 2021)

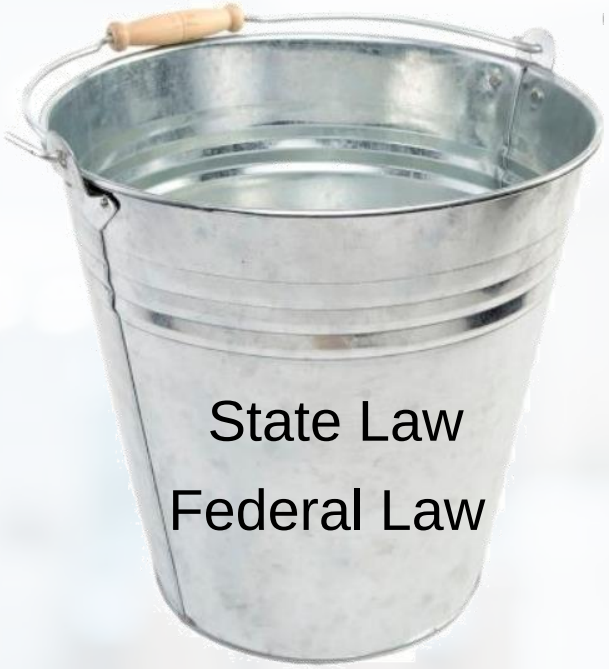
The Virtual Care "Perfect Storm"

- **Regulatory uncertainty:**
  - Federal and state waivers/exceptions expiring or scheduled to expire
  - State and federal legislative/rulemaking efforts underway
  - Per US Government Accountability Office May 2021 Report:
    - "[T]elehealth and other waivers pose risks of increased spending in both programs…"
    - "[T]he quality of telehealth services has not been fully analyzed…."
  - "The potential for overutilization and its financial costs is a long-term concern for Cigna and for all insurers." (Healthcare Finance, May 13, 2021)
- **Increased oversight:**
  - "Both the Medicare and Medicaid programs are on GAO's High-Risk List, in part due to concerns about fraud, waste, and abuse. Increased program spending, the lack of complete data, and suspensions of some program safeguards increase these risks."

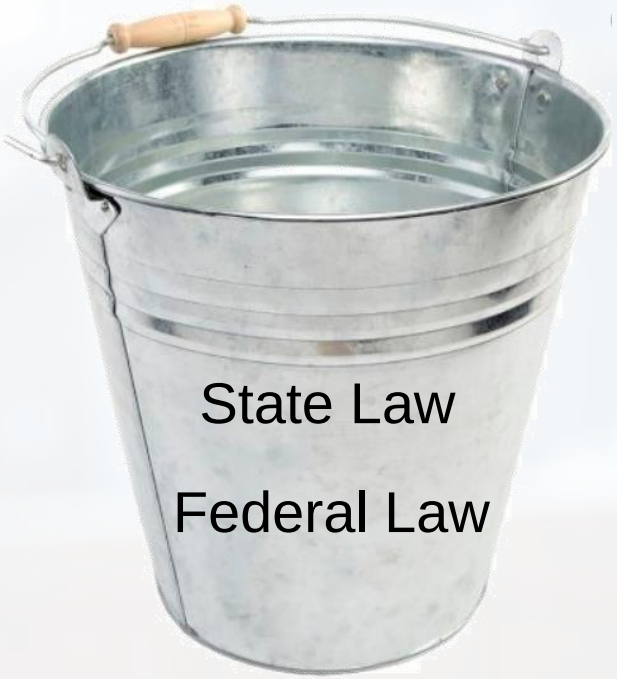
Essential Terminology

- Originating site – where the patient is located
- Distant site – where the telemedicine provider is located
- Telehealth and telemedicine:
  - Terminology and definitions are variable
  - Typically describe permissible method(s) for how medical information may be exchanged
    - Synchronous
    - Asynchronous/store and forward
    - Remote monitoring
- NOTE: Use of terms/definitions vary by state, agency, payor, etc.

Essential Concepts



Professional Practice



Reimbursement

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Essential Concepts

- **Professional practice considerations**
  - Can we provide this service through telemedicine?
  - Who can provide this service through telemedicine?
  - What requirements do we need to meet to provide the service?
  - What technology can we use and how?
- **Reimbursement considerations**
  - Can we get paid for this telemedicine service? By whom?
    - Medicare? Medicaid? Commercial Payors?
- **Note:** Telemedicine services must meet the standard of care

Essential Rules and Regulations

- **Federal telemedicine laws and regulations**
  - Medicare Rules (reimbursement)
  - DEA Rules (professional practice)
  - Other Agency Rules (professional practice)
- **State laws and regulations – highly variable**
  - Medicaid Rules (reimbursement)
  - Parity Rules (reimbursement)
  - Professional Practice/Prescription Standards (professional practice)
  - Professional Board Guidance (professional practice)
  - Scope of Practice Rules (professional practice)

General State Law and Regulation

- **Source of Waivers and Discretionary Non-Enforcement**
  - State/Agency Emergency Orders, Medicaid Waivers, Professional Practice Standards/Professional Board Guidance
- **Types of (potential) changes – also highly variable**
  - Licensure (exceptions/processes, interstate licensure compact, etc.)
    - Collaboration/supervision requirements
  - Use of telemedicine in lieu of in-person visits
  - Use of telephone calls in lieu of audio/visual
  - Professional Board Guidance/Exceptions (e.g., psychology)

State Law - Examples

- **Indiana Telemedicine/Telehealth Statute** (IC 25-1-9.5)
- **Illinois Telehealth Act** (225 ILCS 150/15)
- **Wisconsin MED 24** (Med 24.01 et seq)
- **Kansas Telemedicine Act** (KS Statute 40-2,110 et seq)
- **Texas Telemedicine/Telehealth Rule** (TX Occupations Code 111.005-.009)
- **Missouri Telehealth Act** (191.1145 et seq)

Delegated Credentialing

- Case study:
  - Hospital contracts with a physician group to provide consultation services to Hospital inpatients by telemedicine
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    - Is Hospital required to "credential" these telemedicine physicians?
    - Can Hospital "delegate" this credentialing obligation to the physician group?
  - Yes, but only in the context of "telemedicine" and only pursuant to a documented (and appropriate) delegated credentialing arrangement
  - 42 CFR § 482.12 and § 482.22
    - The governing body of the hospital whose patients are receiving telemedicine services may grant privileges based on its medical staff recommendations that rely on information provided by the distant-site hospital or telemedicine entity

Delegated Credentialing

- Case study:
  - Why would Hospital want to delegate credentialing of these physicians?
  - How much of the credentialing obligation can Hospital delegate?
    - The application?
    - Medical staff review/recommendation?
    - Can telemedicine entity provide a list of approved providers?

Delegated Credentialing

- Degree of delegation – options:
  - Standard credentialing
  - Adopt distant site recommendation
    - Medical staff at the originating site may choose, for its recommendation, to rely fully on the credentialing determination made by the distant site
    - This is the default in most boilerplate contracts
    - Be careful regarding extent of "delegation"
  - Hybrid approach
    - Originating site may rely upon credentialing information and/or recommendations from the distant site as part of its review process

Delegated Credentialing

- What else is required?

Delegated Credentialing

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- Delegation Agreement must be in writing:
  - Distant site must be Medicare-participating hospital or telemedicine entity, and must meet the "conditions of participate" as pertain to credentialing
  - If Originating Site (here Hospital) is Joint Commission Accreditation, Distant Site telemedicine hospital/entity must also be Joint Commission Accredited
  - Provider must be privileged at distant site, which provides current list of Provider's privileges
  - Originating site hospital must share all adverse events and complaints

Delegated Credentialing

- Beyond what is strictly required, what else should we consider/require as part of this arrangement?

Delegated Credentialing

- Additional considerations
  - Carefully consider degree of intended delegation
  - Contemplate the mutual exchange of information
    - Differing peer review statutes and ability to share/protect peer review information
    - Peer review sharing language/agreements
  - NPDB queries (cannot be delegated)
  - Insurance requirements and Malpractice Acts
  - Disclosure/comparison of credentialing standards
  - Disclosure/comparison of clinical privileges (delineation vs. core)
  - Obligations and standards of subcontractors
  - Indemnification
  - Medical Staff Bylaws/exemptions

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- How do you perform quality review in relation to telemedicine providers?
- Potential options:
  - Medical record review (including telemedicine-specific requirements)
  - Recording visits (carefully consider/consent requirements)
  - Tele-proctoring
  - Data from "Distant Site" entity
  - Telemedicine-specific training

Questions?

Contact Us

For more information on these topics visit hallrender.com.

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