HOT TOPICS BEFORE THE SOUTH CAROLINA BOARD OF MEDICAL EXAMINERS

Presented by
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Presentation Overview

• Telemedicine Update and Overview
• Safeguarding Patient Records
• Naloxone
• Other Issues
  – CAPTA Referral Guidelines and Proposed Legislation
  – Botox Consensus Advisory Opinion
  – Interstate Medical Licensure Compact
• Pending Legislation
SC Telemedicine Act

• A 210, R234, S1035
• Introduced in the Senate on January 28, 2016
• Introduced in the House on March 8, 2016
• Last amended on May 4, 2016
• Passed by the General Assembly on May 25, 2016
• Signed by the Governor on June 3, 2016
SC Telemedicine Act

What did it do?

* Defines “telemedicine” § 40-47-20(52)
* Establishes a standard of care for physicians who establish the physician-patient relationship **exclusively** via telemedicine § 40-47-37(C)
* Recognizes telemedicine as a way to establish the physician-patient relationship § 40-47-113(B)

What didn’t it do?

* Change the scope of practice for physicians or other licensees, including APRNs or PAs
* Change anything for a physician who establishes the physician-patient relationship other than exclusively via telemedicine
“Telemedicine” Defined

§ 40-47-20(52)

'Telemedicine' means the practice of medicine using electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening practitioner.
Same Standard of Care

A licensee practicing via telemedicine will be held to the same standard of care as licensee practicing traditional in-person medical care.

Telemedicine providers will be evaluated according to the standard of care that applies to their area of specialty.

A licensee shall not establish a physician-patient relationship by telemedicine pursuant to Section 40-47-113(B) for the purpose of prescribing medication when an in-person physical examination is necessary for diagnosis.

Failure to adhere to the appropriate standard of care, whether in person or via telemedicine, exposes licensee to discipline by BME.
A licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall generate and maintain medical records for each patient using such telemedicine services in compliance with any applicable state and federal laws, rules, and regulations, including this chapter, the Health Insurance Portability and Accountability Act (HIPAA), and the Health Information Technology for Economic and Clinical Health Act (HITECH). Such records shall be accessible to other practitioners and to the patient in a timely fashion when lawfully requested to do so by the patient or by a lawfully designated representative of the patient.
Considerations for Telemedicine

§ 40-47-37(C) In addition to those requirements set forth in subsections (A) and (B), a licensee who establishes a physician-patient relationship solely via telemedicine as defined in Section 40-47-20(52) shall:

(1) adhere to current standards for practice improvement and monitoring of outcomes and provide reports containing such information upon request of the board;

(2) provide an appropriate evaluation prior to diagnosing and/or treating the patient, which need not be done in-person if the licensee employs technology sufficient to accurately diagnose and treat the patient in conformity with the applicable standard of care; provided, that evaluations in which a licensee is at a distance from the patient, but a practitioner is able to provide various physical findings the licensee needs to complete an adequate assessment, is permitted; further, provided, that a simple questionnaire without an appropriate evaluation is prohibited;

(3) verify the identity and location of the patient and be prepared to inform the patient of the licensee's name, location, and professional credentials;

(4) establish a diagnosis through the use of accepted medical practices, which may include patient history, mental status evaluation, physical examination, and appropriate diagnostic and laboratory testing in conformity with the applicable standard of care;

(5) ensure the availability of appropriate follow-up care and maintain a complete medical record that is available to the patient and other treating health care practitioners, to be distributed to other treating health care practitioners only with patient consent and in accordance with applicable law and regulation;
Considerations for Telemedicine

(6) prescribe within a practice setting fully in compliance with this section and during an encounter in which threshold information necessary to make an accurate diagnosis has been obtained in a medical history interview conducted by the prescribing licensee; provided, however, that Schedule II and Schedule III prescriptions are not permitted except for those Schedule II and Schedule III medications specifically authorized by the board, which may include, but not be limited to, Schedule II-nonnarcotic and Schedule III-nonnarcotic medications; further, provided, that licensees prescribing controlled substances by means of telemedicine must comply with all relevant federal and state laws including, but not limited to, participation in the South Carolina Prescription Monitoring Program set forth in Article 15, Chapter 53, Title 44; further, provided, that prescribing of lifestyle medications including, but not limited to, erectile dysfunction drugs is not permitted unless approved by the board; further, provided, that prescribing abortion-inducing drugs is not permitted; as used in this article 'abortion-inducing drug' means a medicine, drug, or any other substance prescribed or dispensed with the intent of terminating the clinically diagnosable pregnancy of a woman, with knowledge that the termination will with reasonable likelihood cause the death of the unborn child. This includes off-label use of drugs known to have abortion-inducing properties, which are prescribed specifically with the intent of causing an abortion, such as misoprostol (Cytotec), and methotrexate. This definition does not apply to drugs that may be known to cause an abortion, but which are prescribed for other medical indications including, but not limited to, chemotherapeutic agents or diagnostic drugs. Use of such drugs to induce abortion is also known as 'medical', 'drug-induced', and/or 'chemical abortion';

* Since June 2016, only one request approved for C-II and C-III
Considerations for Telemedicine

(7) maintain a complete record of the patient's care according to prevailing medical record standards that reflects an appropriate evaluation of the patient's presenting symptoms; provided that relevant components of the telemedicine interaction be documented as with any other encounter;

(8) maintain the patient's records' confidentiality and disclose the records to the patient consistent with state and federal law; provided, that licensees practicing telemedicine shall be held to the same standards of professionalism concerning medical records transfer and communication with the primary care provider and medical home as licensees practicing via traditional means; further, provided, that if a patient has a primary care provider and a telemedicine provider for the same ailment, then the primary care provider's medical record and the telemedicine provider's record constitute one complete medical record;

(9) be licensed to practice medicine in South Carolina; provided, however, a licensee need not reside in South Carolina so long as he or she has a valid, current South Carolina medical license; further, provided, that a licensee residing in South Carolina who intends to practice medicine via telemedicine to treat or diagnose patients outside of South Carolina shall comply with other state licensing boards; and

(10) discuss with the patient the value of having a primary care medical home and, if the patient requests, provide assistance in identifying available options for a primary care medical home.

(D) A licensee, practitioner, or any other person involved in a telemedicine encounter must be trained in the use of the telemedicine equipment and competent in its operation.

(E) Notwithstanding any of the provisions of this section, the board shall retain all authority with respect to telemedicine practice as granted in Section 40-47-10(I) of this chapter.
Prescribing

• S.C. Code Ann. § 40-47-113(A)
  – A proper physician-patient relationship requires licensee to: (1) personally perform and document history and physical exam, make diagnosis, and formulate treatment plan; (2) discuss with patient the diagnosis and risks and benefits of treatment options; and (3) ensure the availability of follow-up care
Prescribing

• S.C. Code Ann. § 40-47-113(B) provides exceptions to personal exam requirement of (A):
  – Writing admission orders for newly hospitalized patient
  – Prescribing for a patient of another licensee while “on-call”
  – Prescribing for a patient examined by a licensed advanced practice registered nurse, a physician assistant, or other physician extender authorized by law and supervised by physician
  – Continuing medication on a short-term basis for a new patient prior to 1st appointment
  – Prescribing for a patient for whom the licensee has established a physician-patient relationship solely via telemedicine so long as the licensee complies with §40-47-37.
Definition of “on-call” adopted by BME:

“The temporary assumption of responsibility for an established doctor-patient relationship . . . a South Carolina licensed physician who is available to physically attend, if necessary, to urgent and follow up care needs of a patient for whom he has temporarily assumed responsibility with acknowledgement of the patient’s primary provider of care.”

The “on-call” relationship must be confirmed via follow-up communications with the patient’s primary care provider and the “on-call” encounter must be fully disclosed to the primary care provider and incorporated into patient’s medical record.
Licensure

• Practice of medicine occurs in state where patient is located

• South Carolina licensees treating patients in other states must check with other state licensing boards:
  http://www.fsmb.org/directory_smb.html
Medical Records

• Maintain complete record according to prevailing medical record standards
Medical Records

• Maintain record’s confidentiality
• Disclose records to patient consistent with state and federal law
Medical Records

• Same standard of care as to records transfer and communication whether via telemedicine or traditional in-person medical care
Safeguarding Medical Records
81-1 Safeguarding Patient Medical Records When a Physician Licensee is Incapacitated, Disappears, or Dies.

(A) Each physician licensee actively practicing within the State of South Carolina shall designate a partner, personal representative, or other responsible party to assume responsibility for patient medical records in the case of incapacity, death or disappearance of the licensee, including any circumstances whereby the licensee is unable for any reason to provide continuity of care, appropriate referral or patient medical records upon a valid request of the patient. Each physician licensee must affirm that he or she has read and understands this obligation upon application for initial licensure and application for renewal of licensure.

(B) Where the physician licensee is incapacitated, disappears, or dies, and no responsible party is known to exist, the Administrator of the Board of Medical Examiners may petition the President of the Board for an order appointing another licensee or licensees to take custody of, inventory, and disperse the medical records to patients or other authorized parties in accordance with the Physician Patient Records Act and to take all other actions as appropriate to protect the interests of the clients. The Order of Appointment shall be a public document.
Safeguarding Patient Records

(C) The appointed licensee shall:

(1) Take custody of and safeguard the physician licensee's available and accessible medical records;

(2) Notify each patient at the patient's address shown in the file, by first class mail, of the patient's right to obtain his or her medical records to which the patient is entitled and the time and place at which the medical records may be obtained;

(3) Post a notice in a conspicuous location at the impaired or unavailable licensee's last known business address advising the time and place at which patient medical records may be obtained;

(4) Publish, in a newspaper of general circulation in the county or counties in which the licensee resided or engaged in any substantial practice, once a week for three consecutive weeks, and notice of the discontinuance or interruption of the physician's practice. The notice shall include the name and address of the licensee whose practice has been discontinued or interrupted; the time, date and location where patients may obtain their medical records; and the name, address and telephone number of the appointed licensee. The notice shall also be mailed, by first class mail, to any malpractice insurer or other entity having reason to be informed of the discontinuance or interruption of the medical practice;
(C) The appointed licensee shall:
(5) Release to each patient the records to which the patient is entitled unless release directly to the patient is expressly prohibited by state or federal law. The appointed licensee shall obtain a receipt from the patient for the medical records before releasing the medical records. In the event the release of medical records directly to the patient is prohibited by state or federal law, the appointed licensee may release the records to an appropriate licensed healthcare provider, healthcare facility or patient's representative upon receipt of authorization to release from the patient, patient's representative or a court of law and shall obtain a receipt from the receiving party prior to the release of the records;
(6) Perform any other acts directed in the Order of Appointment; and
(7) The appointed licensee may seek reimbursement for reasonable expenses incurred pursuant to the discharge of duties imposed by the Order of Appointment from the assets or estate of the incapacitated, unavailable or deceased physician licensee.
(D) The appointed licensee shall petition the Board President for authorization to dispose of unclaimed records no sooner than 1 year from the Order of Appointment's execution.
(E) When the appointed licensee has complied with the provisions of this regulation, he or she may petition the Administrator of the Board for termination of the Order of Appointment by the Board President.
Safeguarding Patient Records

(F) Neither the appointed licensee nor any other person or entity appointed to assist the appointed licensee shall disclose any information contained in the patient records without the consent of the patient or the patient's duly authorized representative, except as necessary to carry out the Order of Appointment.

(G) Neither the appointed licensee nor any other person or entity appointed to assist the appointed licensee shall be responsible for reviewing the content of the medical records or ensuring compliance with any records retention policy set forth in either state or federal law.

(H) While acting pursuant to the Order of Appointment, the appointed licensee and any other person or entity appointed to assist the appointed licensee shall be considered an extension and agent of the South Carolina Board of Medical Examiners.

(I) The term of an Order of Appointment shall be for a period of no longer than 12 months. Upon application by the appointed licensee, the Board President may extend the term of the order as necessary.

As the opioid epidemic has spread across the United States, practitioners, patients and families have become increasingly aware of Naloxone.

South Carolina has taken affirmative steps since 2014 to make this medication more readily available.
Naloxone

Naloxone has been a tool for first responders since the 1970’s.

In 2014, the BME urged prescribers to consider prescribing Naloxone to patients receiving more than 80 MED in its Joint Revised Pain Management Guidelines.

http://www.llr.state.sc.us/POL/Medical/PDF/Joint_Revised_Pain_Management_Guidelines.pdf

In 2015, the Legislature passed the SC Overdose Prevention Act. “First responders” is defined to include EMS providers, law enforcement officers or a fire department worker.

http://www.scstatehouse.gov/code/t44c130.php
Naloxone

In 2016, the Legislature amended the Overdose Prevention Act by adding §44-130-40 to allow pharmacists to dispense Naloxone without a prescription pursuant to a joint protocol developed by the BME and the Board of Pharmacy.

The Boards approved a protocol in November 2016.

Naloxone

The Joint Protocol addresses:
Eligible candidates;
Routes of administration;
Medication and required device for administration;
Directions for use;
Refills;
Contraindications;
Patient education;
Pharmacist education;
Notification of participation and
Required documentation.
Naloxone

Persons who voluntarily request Naloxone and are at risk of experiencing opioid-related overdose, including but not limited to:
Current illicit or non-medical opioid users or persons with a history of such use;
Persons with a history of opioid intoxication or overdose and/or emergency medical care for acute opioid poisoning;
Persons with an opioid prescription, especially those who have:
  known or suspected concurrent alcohol abuse;
  COPD or other respiratory illness or obstruction or currently smoke;
  renal dysfunction, Hepatic disease, cardiac disease, or HIV/AIDS; or concurrent Benzodiazepine prescription;
Persons from an opioid detoxification and mandatory abstinence program;
Persons entering methadone maintenance treatment programs (for addiction or pain);
Persons who may have difficulty accessing emergency medical services; and/or
Persons who voluntarily request Naloxone and are the caregiver of a person at risk of experiencing an opioid overdose
Pharmacies Dispensing Naloxone

Pharmacies **may** notify the Board of Pharmacy of their voluntary participation.

If dispensing Naloxone without a prescription, pharmacies **must** maintain the following documents:

- A current copy of the Joint Protocol
- Notice of Informed Consent and Affirmation of Naloxone Purchaser with Notice to Primary Care Provider, if identified, for each transaction; and
- All pertinent patient records, which must be maintained for 2 years.

A website is under construction
Naloxone

Naloxone is currently available in 4 forms:
(1) Injectable
(2) Auto Injector (Evzio)
(3) Nasal Spray (Narcan)
(4) Mucosal Atomizing Devices (MAD 300)*

*product recalled in November 2016

http://www.ems1.com/opioids/articles/141238048-Device-used-to-administer-Narcan-recalled/
South Carolina.

NALOXONE Projects

DHEC Bureau of EMS
The Law Enforcement Officers Naloxone Training Program (LEON) is the product of the collaborative efforts between:

- Anderson County EMS (ACEMS)
- South Carolina Department of Alcohol and Other Drug Abuse Services (DAODAS)
- South Carolina Department of Health and Environmental Control (DHEC) Bureau of EMS
- Fifth Judicial Circuit Solicitor Office (FCSO)
- Greenville County Sheriff's Office (GCSO)
LEON Program

The program's goal is to provide a comprehensive training to law enforcement agencies all across South Carolina that focuses on the

- Identification
- Treatment
- Reporting

Of drug overdoses attributed to opiates, such as heroin and opioid pharmaceutical drugs.
National Overdose Deaths
Number of Deaths from Heroin

Source: National Center for Health Statistics, CDC Wonder
In 2010, about 12 million Americans (age 12 or older) reported nonmedical use of prescription painkillers in the previous year. In 2014, the number grew to 21.5 million.

The death rate from drug OD in the United States more than doubled during 1999–2014, from 6.0 per 100,000 population in 1999 to 15.6 per 100,000 in 2014.

In 2013 there were 237 reported opioid related deaths in South Carolina. In 2014 the number grew to 516.

In 2015 there were 311 murder deaths in South Carolina but 594 opioid deaths.

2016 opioid deaths are expected to be over 700...

The problem exists in all 46 counties in South Carolina.
2015 Opioid Related Deaths

594 Opioid Deaths
311 Murder Deaths

Opioid Death Rates per 100 K
- Horry 23.93
- Pickens 22.18
- Oconee 17.17
- Spartanburg 17.15
- Greenville 15.04

2016
85 or 27.49
EMS Statute and Regulation require 100% reporting of every patient care contact that originates in South Carolina.

We average 1.3 million ePCRs a year since 2009.

Naloxone usage reporting is required and tracked by the Bureau of EMS.

Since Naloxone is only used for suspected opioid overdoses, follow the EMS usage find & the opioid abuse.

ePCRs are uploaded by receiving ED to a patient’s record noting the usage of Narcan by both EMS and civilians.

We compared 2011 usage with 2015 usage.
Naloxone Usage by EMS in 2011

3,533 patients

Per 100K people:
- Pickens: 194.6
- Greenville: 133.7
- Spartanburg: 130.4
- Anderson: 101.8
- Horry: 93.0
- Charleston: 35.2
- Richland: 21.8

Naloxone Usage by EMS in 2011
Naloxone Usage by EMS in 2015

4,610 patients

Per 100K people
- Pickens: 199.7
- Horry: 164.6
- Greenville: 144.2
- Spartanburg: 104.6
- Anderson: 96.6
- Charleston: 67.3
- Richland: 36.1
S.C. EMS Usage of Naloxone in 2016

So far 5,323 people
17,839 doses

Already 27% over all of 2015
2016 Horry County EMS Usage of Naloxone

674 people
1/1 to 10/31

Over 200
50-100
10-49
Addressing the Problem in South Carolina

- To date the LEON program has trained over 750 officers in 3 of the 4 regions in the state in 19 law enforcement agencies.
- The program offers training, online reporting, access to designated pharmacies, a statewide standing order by a physician to carry & administer Naloxone, and free Naloxone purchased with grant or donated.
- In October 2016 the LEON project was awarded a SAMHSA grant to continue the program and to purchase Naloxone for our trained officers.
- The training, the portal, the orders, and the Naloxone we provide is free.
- Since June 2016, 9 lives saved with all cases documented on NFADF portal.
The LEON Team

Sara Goldsby, Joe Shenkar, Scott Stoller, Arnold Alier, Jeff Ward, Richard Naugler
Thanks to Arnold Alier for his permission to use the LEON slides.

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Other Issues

- Other Issues
  - CAPTA Referral Guidelines and Proposed Legislation
  - Botox Consensus Advisory Opinion
  - Interstate Medical Licensure Compact
Renewal Reminder

The renewal period for MD/DO is April 1-June 30, 2017.

Renewal Fee is $155.

Online renewal.

www.llronline.com
BME Elections

The Board is currently conducting three elections:

- Congressional District 4
- Congressional District 5
- DO Seat

Deadline for petitions was February 7, 2017.
Pending Legislation

• **H. 3772** and **S. 345** re: APRN Practice
• **S. 243** re: Emergency Refills by Pharmacists
• **S. 299** and **H. 3438** re: Biosimilars/Drug Product Selection Act
• **H. 3064** re: Pharmacists prescribing hormonal contraceptive patches
• **H. 3349** re: Enhanced Nurse Licensure Compact (RN and LPN only)
Pending Legislation

- **H. 3622** re: Podiatric Surgery (to myotendinous junction)
- **H. 3118** re: Nursing Home Nurse Staffing Requirements (increased ratio during all shifts)
- **H. 3119** re: Nursing Home Admission Exam
- **H. 3120** re: Min. Staff:Resident Ratio for CRCFs
- **S. 212** and **H. 3521** re: SC Compassionate Care Act (Medical Marijuana)
- **H. 3128** re: Putting Patients First Act (Medical Marijuana)
Pending Legislation

**H. 3162** re: Decriminalizing Pot (for Veterans)

**H. 3559** re: Industrial Hemp

**S. 179** re: Immunity for drug/alcohol-related offenses when seeking treatment for overdose

**S. 217** and **H. 3530** re: Personhood Act (Medical Abortion)

- **S. 283** re: Abortion Complication Reporting Act
- **H. 3548** re: SC Unborn Child Protection from Dismemberment Abortion Act
Pending Legislation

• **S. 242** and **H. 3133** re: Medical Birth Centers
• **S. 152** re: Required SCMA Membership for Physicians
• **S. 178** re: Amending the Adult Health Care Consent Act
• **S. 182** re: Electrology Practice Act
• **H. 3487** re: DNR Orders
Questions?

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