



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tony Evers, Governor
Mark V. Afable, Commissioner

Wisconsin.gov

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DATE: March 31, 2020
TO: All Insurers writing Healthcare Liability Insurance Policies and Interested Parties
FROM: Mark V. Afable, Commissioner of Insurance
SUBJECT: Removing Barriers to Timely Coverage during the Public Health Emergency

The Office of the Commissioner of Insurance (OCI) is issuing this request for action to insurers who write healthcare liability insurance (commonly known as medical malpractice insurance). OCI is requesting that medical malpractice insurers work to remove any barriers to issuing timely medical malpractice coverage to providers who begin engaging in telemedicine services with their patients and to providers who are temporarily authorized to offer services in the state.

Telemedicine Offered by Wisconsin-Licensed Health Care Providers

The practice of telemedicine is allowed under existing Wisconsin law unless there is some profession-specific limitation. Providers must use their professional judgment to determine if telemedicine is appropriate for the patient or client being treated.

OCI asks that medical malpractice insurers recognize that services that have typically been offered in-person will now be provided via telemedicine during the COVID-19 pandemic. Also, healthcare providers that have not engaged in telemedicine in the past may move their practice to telemedicine during the pandemic. Medical malpractice insurers should also be aware that providers are being asked to take on new patients to free other providers to treat those with COVID-19.

OCI requests that medical malpractice insurers provide coverage for telemedicine under the same terms for providers as if they were providing services in-person. OCI requests that insurers do this on a global or expedited basis without the imposition of requirements that will slow the adoption of telemedicine practices. OCI would view requirements that providers go through additional underwriting, that providers limit their practice to existing patients or that providers receive prior authorization from their insurer as unreasonable barriers.

Insurers are reminded that the liability coverage required under Wis.Stat. ch. 655 includes coverage when the provider practices in another state. See Wis. Stat. § 655.27(5)(a)2.

Temporarily Licensed Providers

Under the Governor's Emergency Order #16 issued on March 27, 2020, any health care provider with a valid and current license issued by another state may practice under that license and within the scope of that license in Wisconsin without first obtaining a temporary license from the Department of Safety and Professional Services, so long as the following conditions are met:

1. The practice is necessary for an identified health care facility to ensure the

continued and safe delivery of health care services;

2. The health care provider is not currently under investigation and does not currently have any restrictions or limitations placed on their license by their credentialing state or any other jurisdiction;
3. The identified health care facility's needs reasonably prevented in-state credentialing in advance of practice;
4. The health care provider practicing under this section must apply for a temporary or permanent health care license within 10 days of first working at a health care facility in reliance on this Section; and
5. The health care facility must notify DSPS at dsps@wisconsin.gov within five (5) days of a health care provider practicing at its facility in reliance on this Section.

In addition, under the executive order, providers who have left the medical profession will be notified as to how they can renew or activate their licenses.

OCI asks that medical malpractice insurers work with providers operating in Wisconsin on a temporary license to provide the necessary medical malpractice insurance coverage in a timely fashion. OCI believes that medical malpractice coverage that would otherwise be issued to a provider should not be denied for the reason that the provider holds a temporary license.

Temporarily licensed providers who have coverage for health care liability through a policy that does not meet the requirements of Wis.Stat. § 655 should contact Brynn Bruijn-Hansen at Brynn.BruijnHansen@wisconsin.gov. Temporary coverage may also be available through the Wisconsin Health Care Liability Insurance Plan.

Any questions concerning this bulletin may be directed to Olivia Hwang, Director of Public Affairs, at Olivia.Hwang@wisconsin.gov.