Watch Out for the Sharks!

HIPAA/Liability/JCAHO
JCAHO

Definitions

✓ Joint Commission on Accreditation of Healthcare Organizations

✓ “Just Coming Around to Help Out”

✓ New Name: simply “Joint Commission”
Professional and Technical Advisory Committee (PTAC)

7 PTACs

1. Ambulatory Care
2. Behavioral Health
3. Home Care
4. Hospital
5. Laboratory
6. Long Term Care and Assisted Living
7. Network
The PTAC members represent a diverse group of professional organizations and other interests groups that can provide expert advice and assist JCAHO in the development and refinement of standards, scoring guidelines, and the survey process.

Member organizations may have one official member and one alternate, as well as an organizational liaison.
The PTAC also provides perspectives on environmental trends, educational needs, and other pertinent issues facing each of the fields in which JCAHO offers accreditation services.

Members are expected to provide information and advice regarding anticipated developments in their field, which may have standards or survey process implications.
PTAC members are expected to be proponents of their respective areas of knowledge and their constituents to JCAHO, as well as proponents of JCAHO to their respective constituents.
Ambulatory Care PTAC

✓ Addresses issues regarding development and refinement of standards, scoring and survey process related to the *ambulatory setting* in which JCAHO offers accreditation services

✓ This PTAC has a total of 30 organizations represented and one public member

✓ This is the only PTAC with Telehealth or ATA representation
The “What”: The Standard represent the “goal” and defines the performance expectations and/or structures or processes that must be in place in order for an organization to provide safe, high quality care, treatment, and services. An organization is either “compliant” or “non-compliant” with a standard.
The “WHY”: The Rationale explains why it’s important to achieve that goal. Provides the background, justification or additional information about a standard. Sometimes the rationale is “self-evident” and there is no written rationale.
JCAHO Standards Format

✔ The “How”: The *Elements of Performance (EPs)* identify the step(s) needed to achieve that goal. These represent the specific performance measures of expectations and/or structure or processes that must be in place to achieve compliance. EPs are evaluated on the following scale:

- 0 = Non-compliant
- 1 = partial compliance
- 2 = Satisfactory compliance
- NA = Not applicable
JCAHO and Telehealth

✓ JCAHO faces the challenges of balancing the needs to ensure patient safety and quality of care versus not developing standards that create barriers to the use of telehealth
JCAHO and Telehealth definitions

✓ Originating Site: where the patient is located

✓ Distant Site: where the consultant is located

✓ LIP: Licensed Independent Practitioner
JCAHO and Telehealth Credentialing and Privileging

Standard MS.4.120

✓ JCAHO will allow originating sites, where the patient is located, to accept appropriate licensing and privileging documentation from the distant site, where the consultant is located, if the distant site is JCAHO accredited.

  • Recognizes that the distant site has more relevant information upon which to base its privileging decisions. Acknowledges that the originating site may have little experience in privileging in certain specialties
  • Reduces the credentialing and privileging burden for the originating site, especially where there are large numbers of LIPs who might provide telemedicine services
  • Reduces the credentialing and privileging burden for the distant site where the telehealth providers are located, especially where there are large numbers of originating sites that may be receiving telemedicine services
If the consultant is licensed and privileged at a JCAHO accredited site, that consultant can provide telehealth services for which they are privileged, from their office or clinic, as long as that documentation is provided to the originating site (patient’s location).
CMS and Telehealth Credentialing and Privileging

The Dilemma!

**CMS requires that the originating site, hospital or clinic where the patient is located, fully credential and privilege the telehealth provider in order for the provider to bill and be reimbursed**

**vs**

**JCAHO allows the originating site to accept the credentialing and privileging documentation providing by the telehealth providers’ site**
The Dilemma!

- Increases the credentialing and privileging burden for the originating site, especially where there are large numbers of LIPs who might provide telemedicine services.
- Increases the credentialing and privileging burden for the distant site where the telehealth providers are located, especially where there are large numbers of originating sites that may be receiving telemedicine services.
JCAHO and Telehealth Provider Identification

✔ There will need to be some mechanism of determining the identity of the telehealth provider in order to ensure they are who they say they are, and that they are privileged and credentialed to provide the telehealth service being offered to a patient at an originating site.
JCAHO and Telehealth

✔ Both the originating site and distant site have a responsibility to inform each other of any concerns regarding the quality of services being provided via telehealth or any sentinel event involving that telehealth consultant.
Standard MS.4.130: “The medical staff at both the originating and distant sites recommends the clinical services to be provided by LIPs through a telemedicine link at their respective sites.”

Elements of Performance:
- “LIPs recommend which clinical services are appropriately delivered by LIPs through this medium.”
- “The clinical services offered are consistent with commonly accepted quality standards.”
JCAHO and Telehealth

*R-5 Standards*

- **Standard R-5**: The organization only renews a privilege when there is clear intent to continue providing all of the resources necessary to support the requested privilege.

- **R-5.1**: There is a mechanism to determine whether or not sufficient budgetary, spatial, equipment and staffing resources are in place to continue supporting the privilege.

- **R-5.2**: Adequate resource determination criteria are clearly defined.

- **R-5.3**: The organization consistently implements the resource determination process for each requested privilege.
JCAHO and Telehealth

Implications of the R-5 standards to Telehealth

✔ This may imply application of national standards for specific telehealth services, e.g. teleradiology, teledermatology etc., that must be met by the sites from where that activity is being delivered and being received

✔ However, who determines what criteria will be applied and the mechanisms that would be used to determine the existence of adequate resources is unclear
International activities in the United States are creating even greater challenges when international standards are not established and there is difficulty in verifying a foreign practitioners’ credentials and qualifications to provide a service from another country to JCAHO accredited facilities in the United States (e.g. teleradiology services from India or Australia).
Conclusions

✓ JCAHO standards being developed for telehealth are attempting to lessen the burden for determining the qualifications of the telehealth provider by relying on documentation from the telehealth provider’s facility

✓ At this point those standards being applied appear reasonable
Conclusions

✓ How those standards and elements of performance are applied by the JCAHO field officers during accreditation site visits will need ongoing monitoring and review in order to assure consistency, fairness and improvements when necessary.

✓ Ongoing feedback from the telehealth community will be critical in this process.
Conclusions

✔ JCAHO facilities whose LIPs deliver services via Telehealth should:

- **Document** general staff approval to do so and
- **Provide some record** of CQI, documentation of any adverse events and actions taken
- **Provide evidence** the Telehealth providers have been appropriately **trained** to provide those services using Telehealth technologies and following accepted standards
Conclusions

 ✓ JCAHO facilities *receiving* Telehealth services should also have documentation that they accept the privileging and credentialing process from the distant site of the LIP providing those services

 or

 ✓ Have **Business Associate Agreements in place**
Questions/Comments
This just in!
Response to Noncompliant Standards

☑️ Startin 2009, all partially compliant and insufficiently compliant EPs must be addressed via the Evidence of Standards Compliance (ESC) submission process

☑️ Timeline depends on criticality of findings and immediate risk: 45-60 days
  - Immediate threat to life (inop fire alarm, high infection rate)
  - Situational Decision rules
  - Immediate Impact Requirements
  - Less Immediate impact Requirements
Standards Improvement Initiative (SII)

- Launched in August 2006 as part of JCAHO CQI
- To enhance clarity and objectivity of the standards
- Currents standards: “Retain, Split, Consolidate, or Delete.”
- Revisions to be completed mid 2008
- Effective January 2009
JCAHO Standards Books

✓ 2009 *Standards for Telehealth*
✓ Print to be published soon
✓ Electronic Versions will be available Fall 2008
Survey Process

✓ Unannounced

✓ Standards scoring possibilities:
  – Satisfactory Compliance (2),
  – Partial Compliance (1) [≥35% of EPs associated with a standard are score 1 = noncompliant]
  – Insufficient Compliance (0)