



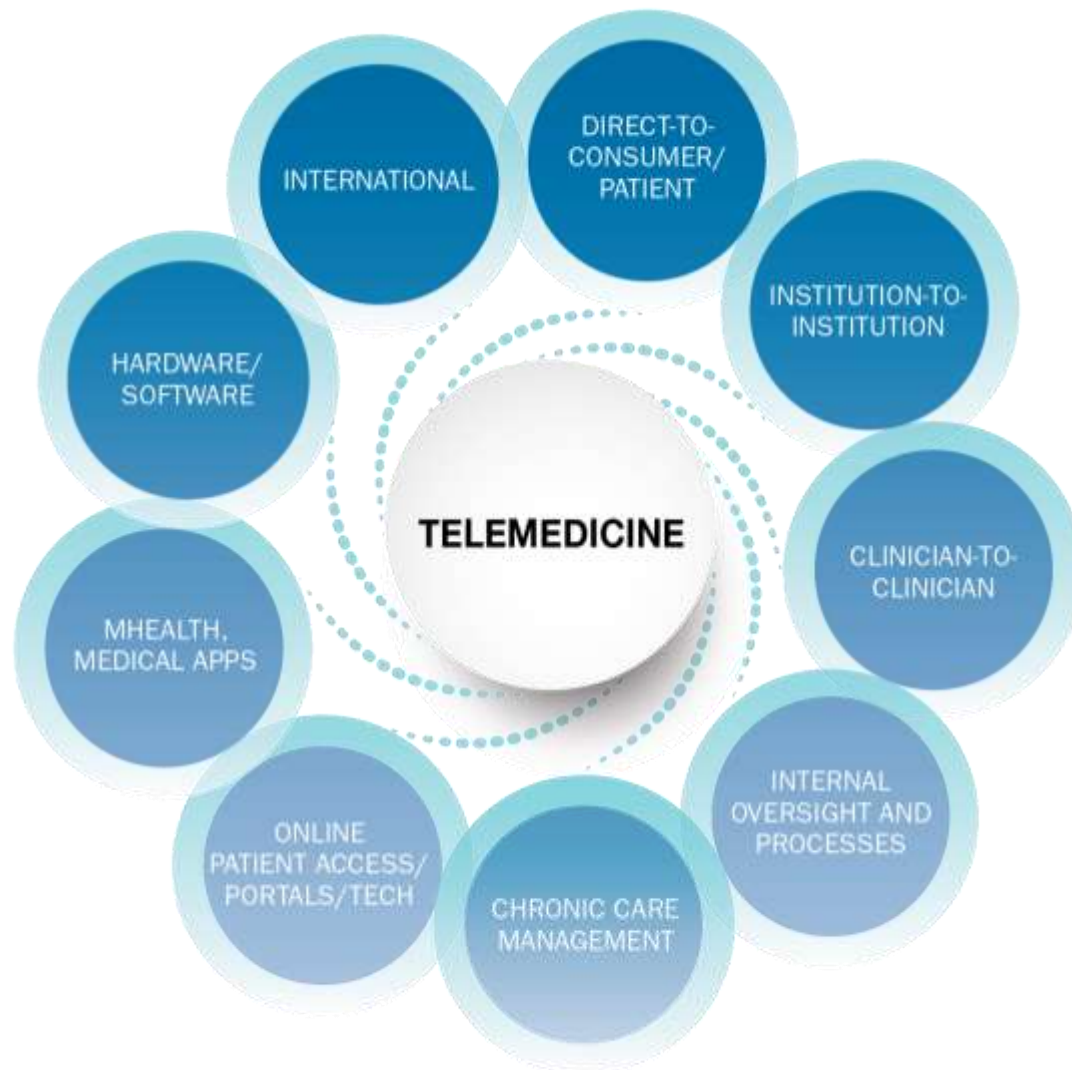
Secrets to Building & Negotiating Telehealth Contracts

Nathaniel Lacktman, Esq.
Monica Chmielewski, Esq.
May 17, 2018

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Telehealth Arrangements



Presentation Outline

■ **Telehealth contract structures**

- Facility professional services
- Technology
- Health plan
- Direct to consumer

■ **Key Provisions in a Telehealth Contract**

- Parties, Services, Staffing, Coverage & Service Levels, Equipment & Software, Warranties, Records, Privacy & Security, Compensation, Billing, Other

Not Exclusive!



Telehealth Contracts Simplified

A person wearing a white lab coat is holding a tablet computer. The background is blurred, suggesting a clinical or hospital setting. The text 'Hospital Telehealth Services Contract' is overlaid on the image in a white serif font.

Hospital Telehealth Services Contract

Payment + Reporting



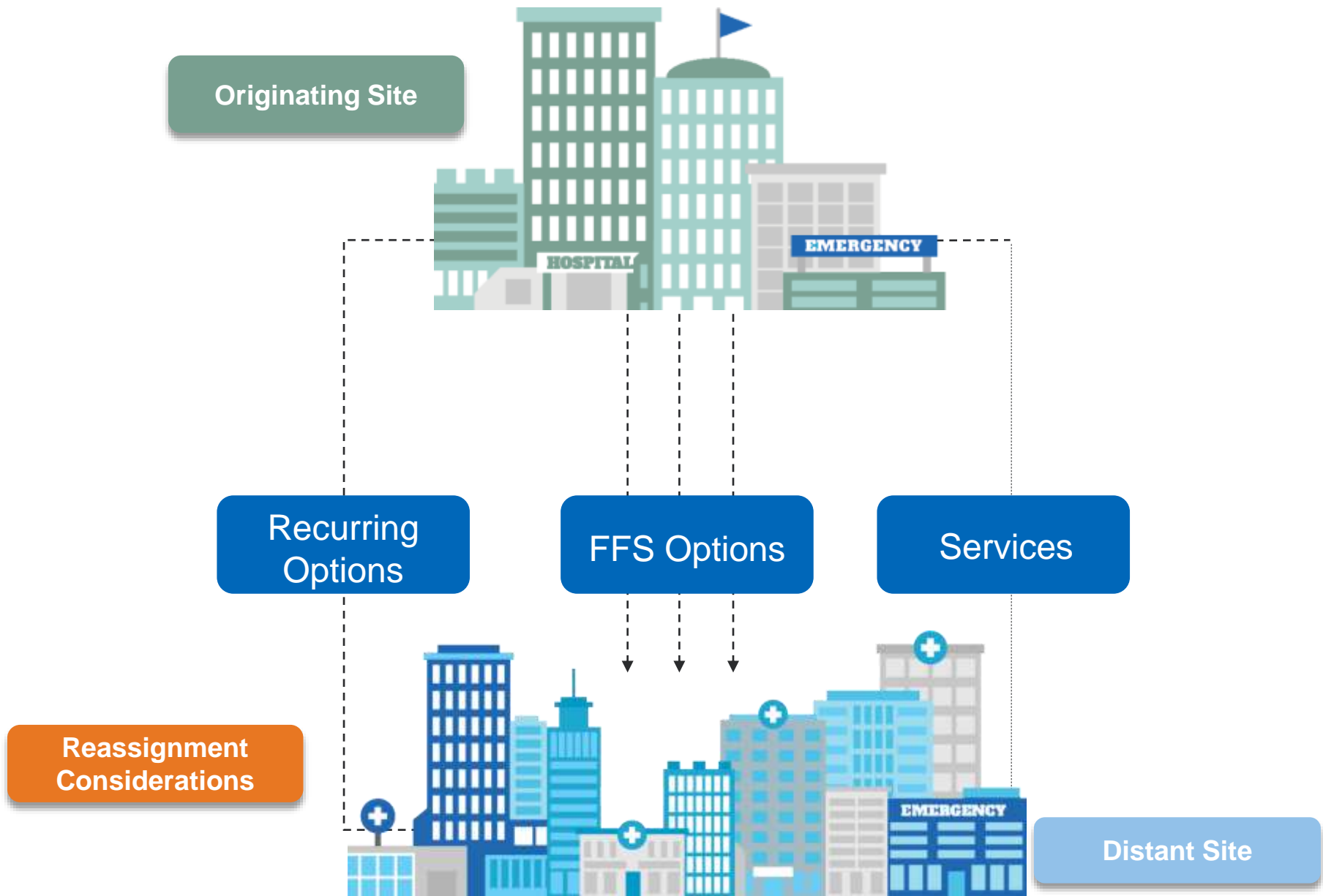
Originating Site

Distant Site

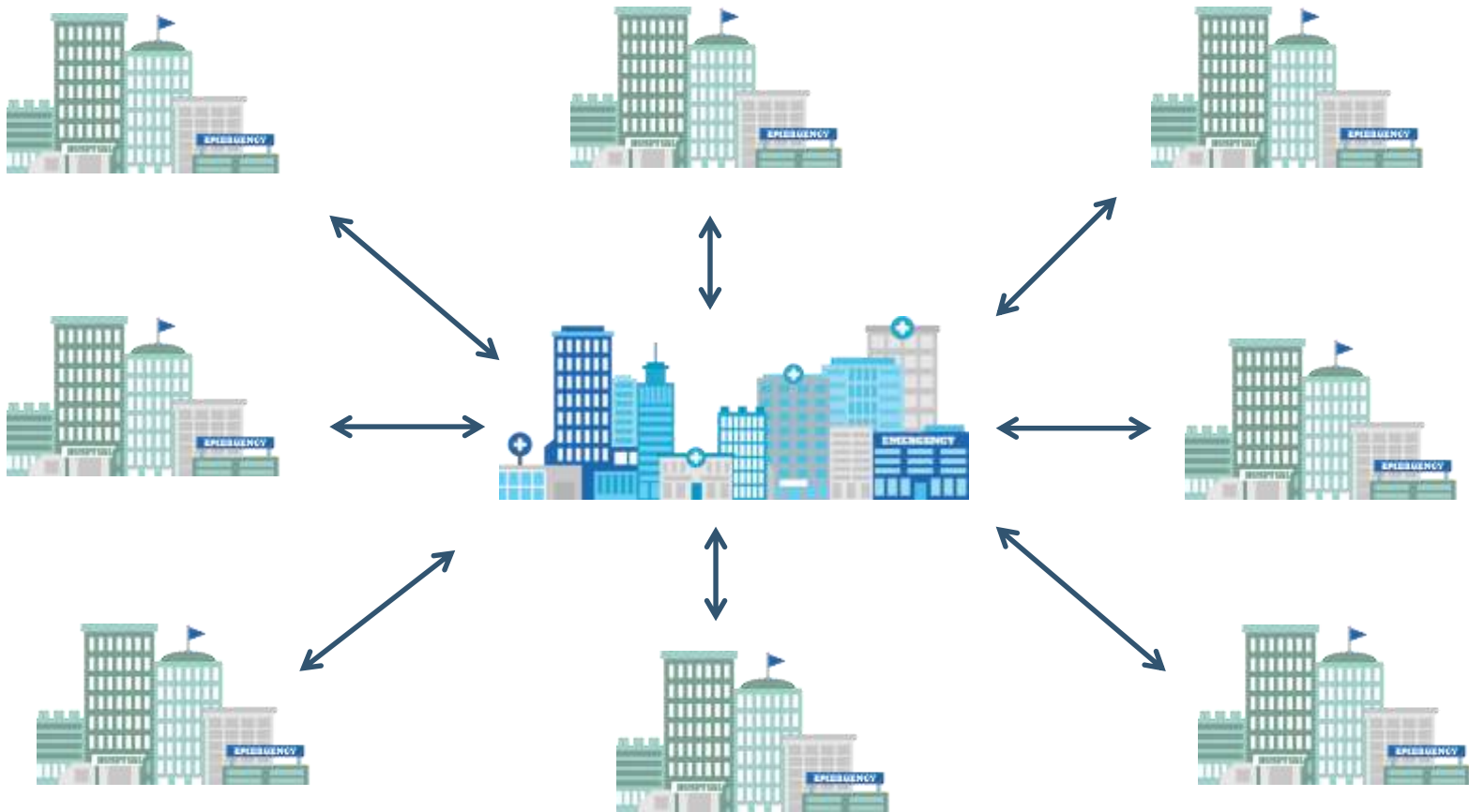
Credentialing by Proxy

Services + Credentialing



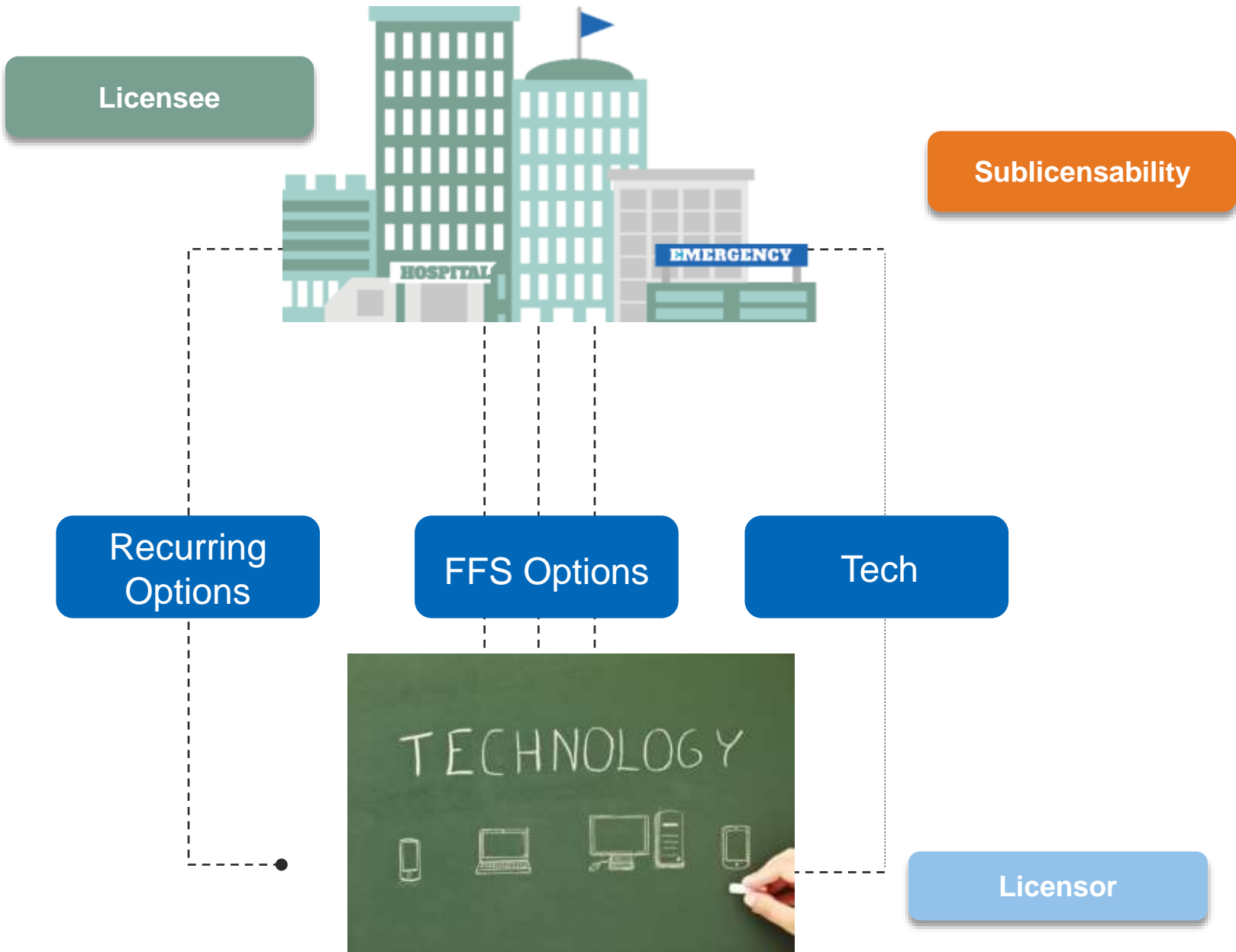


Statewide Telemedicine Network



A person wearing a white lab coat is holding a tablet computer. The person's hands are visible, and they appear to be interacting with the screen. The background is blurred, suggesting a clinical or office setting. A dark blue horizontal band is overlaid across the middle of the image, containing the title text.

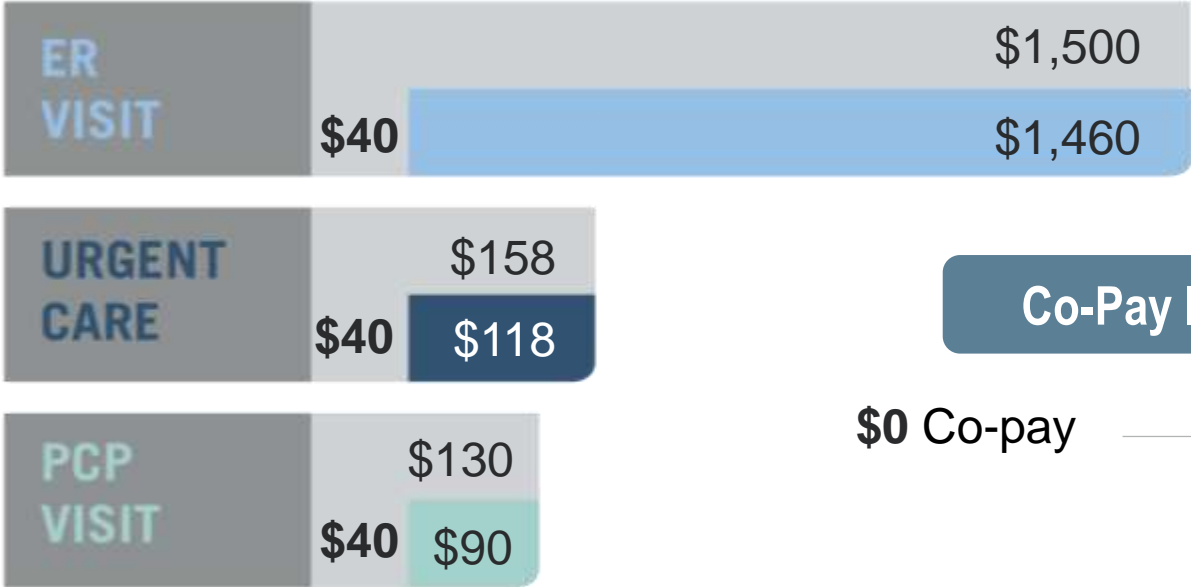
Telehealth Technology Contract



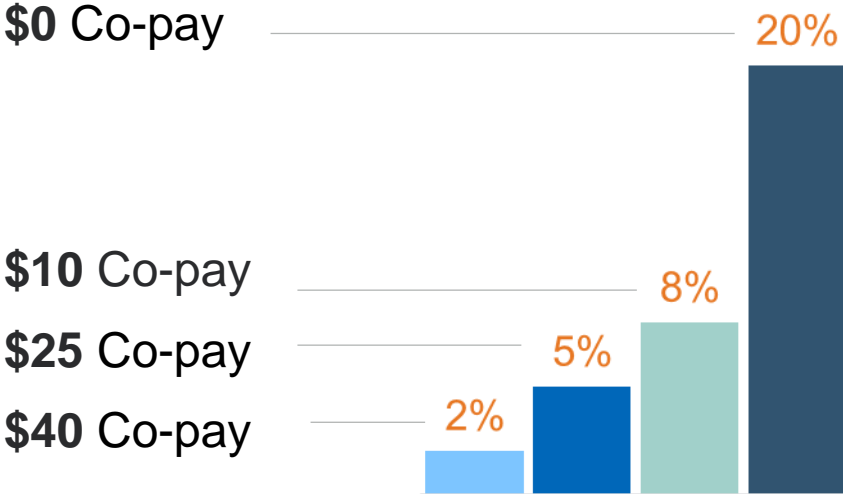


Telehealth Health Plan Contracts

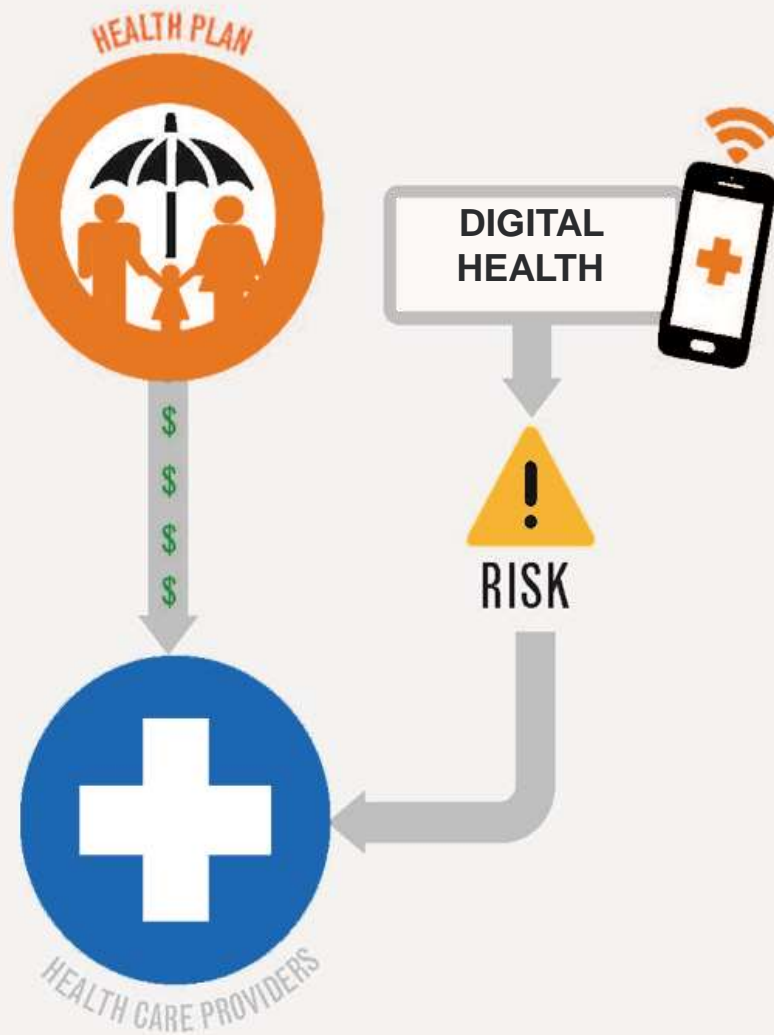
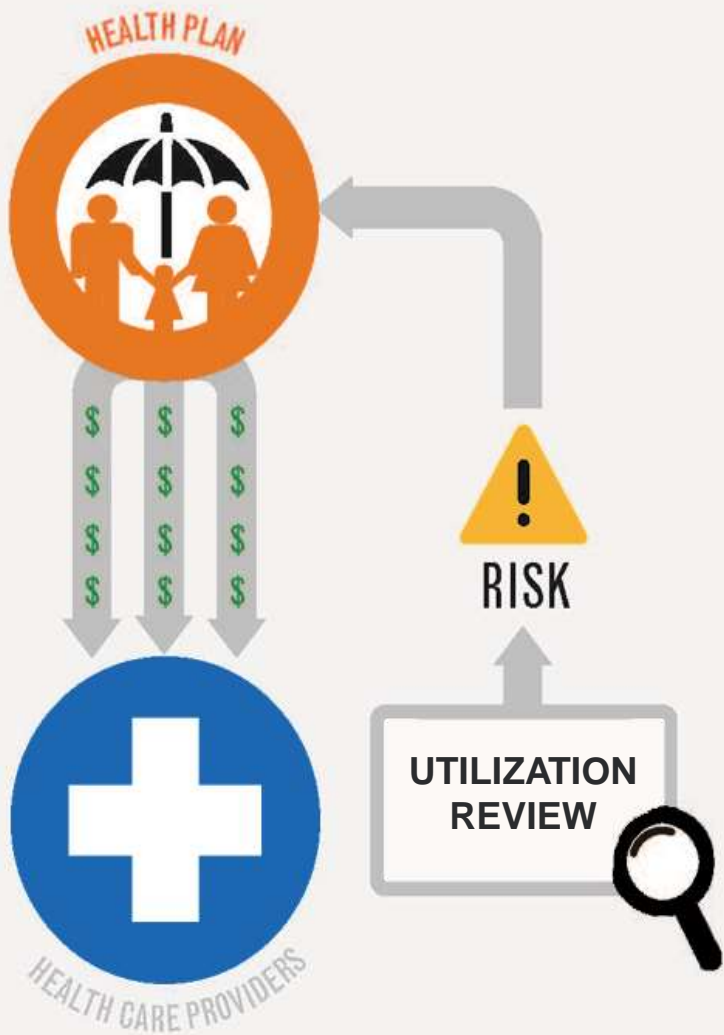
Telehealth and Employer Contracts



Co-Pay Impact on Utilization

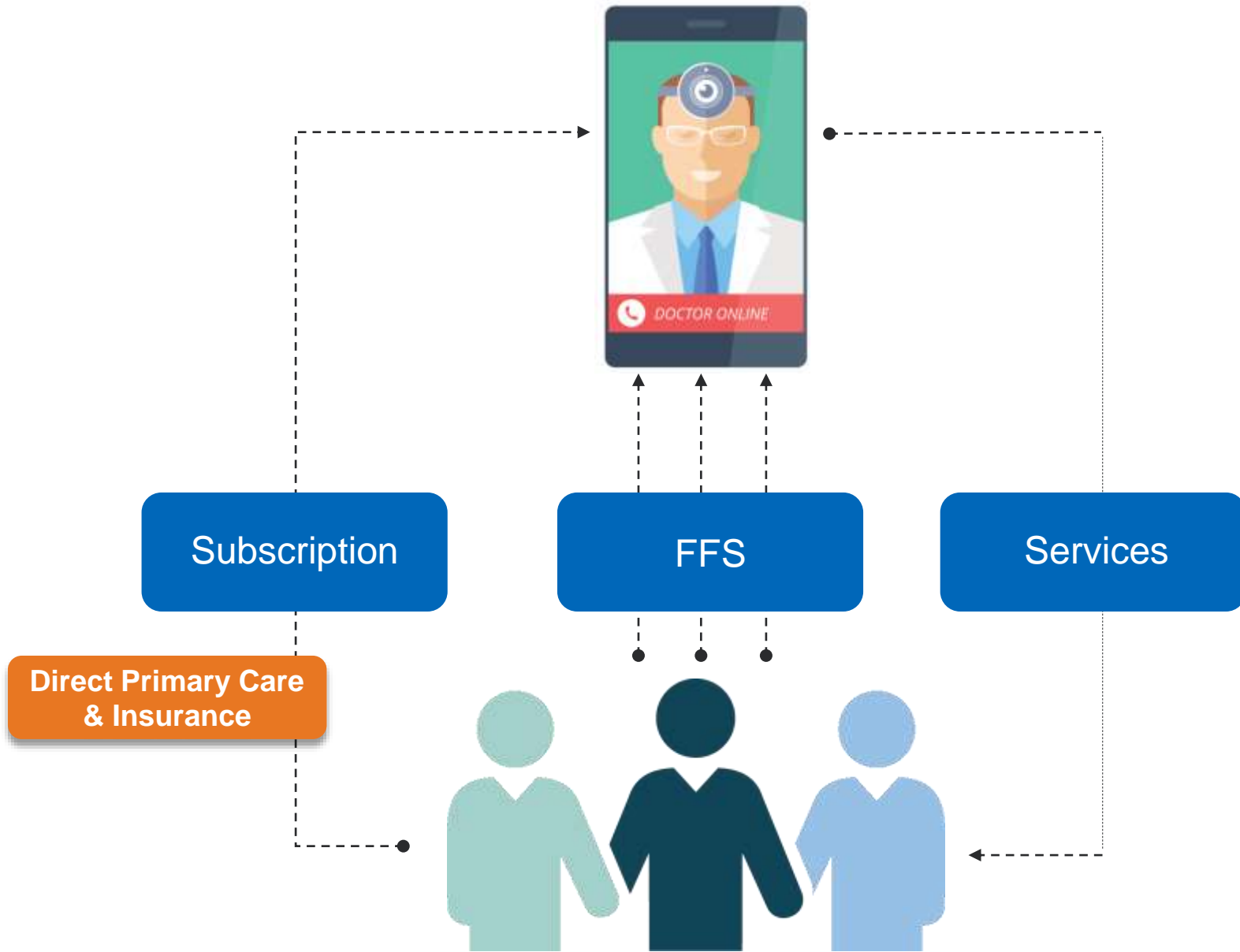


Telehealth and Risk-Based Contracting

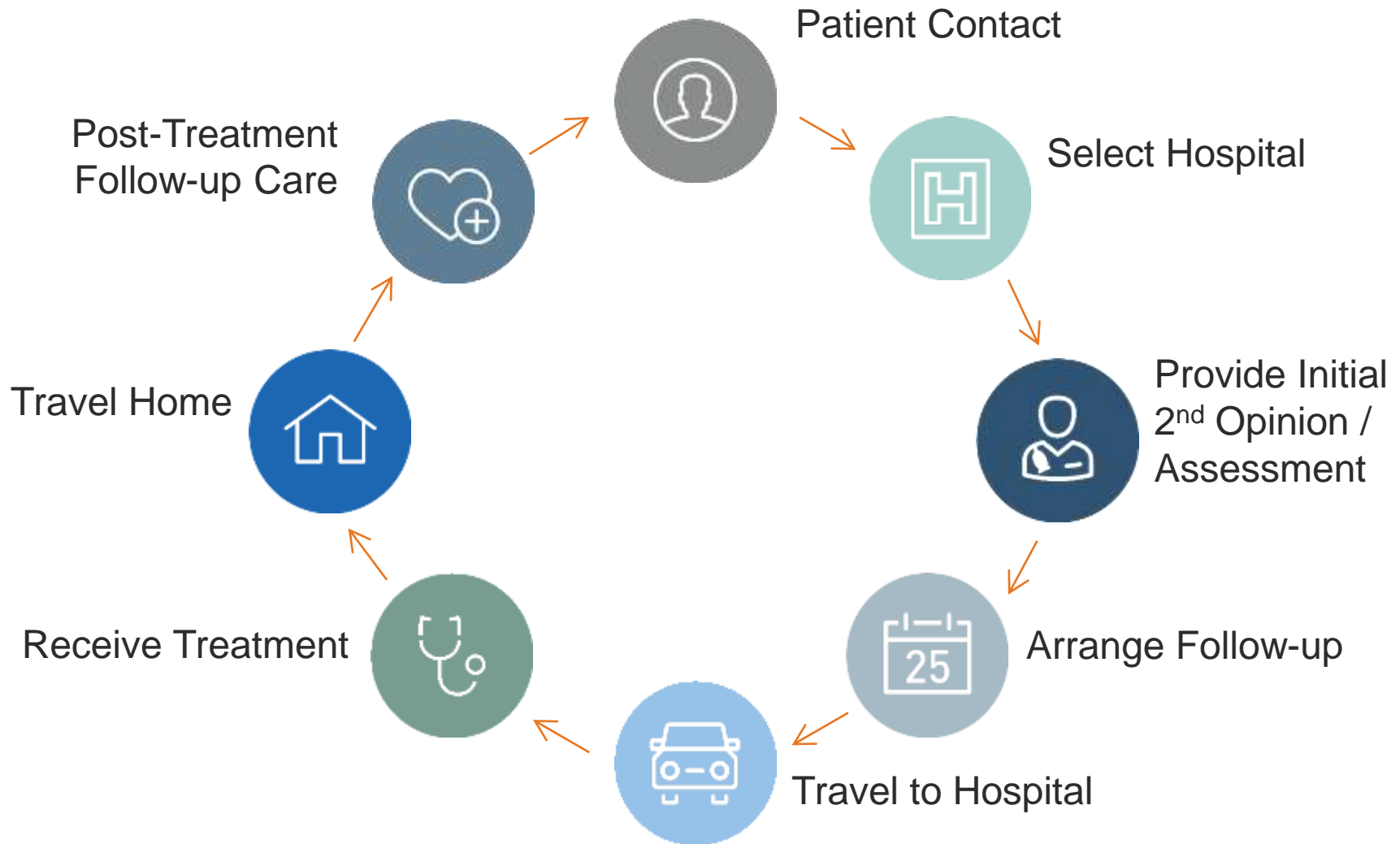


A person's hands are shown holding a tablet computer. The tablet screen is visible, though the content is not clearly legible. A dark blue semi-transparent overlay covers the middle portion of the image, containing the text 'Direct to Consumer Telehealth Contracts' in white. The background is a blurred indoor setting.

Direct to Consumer Telehealth Contracts



Online Second Opinion and Destination Medicine



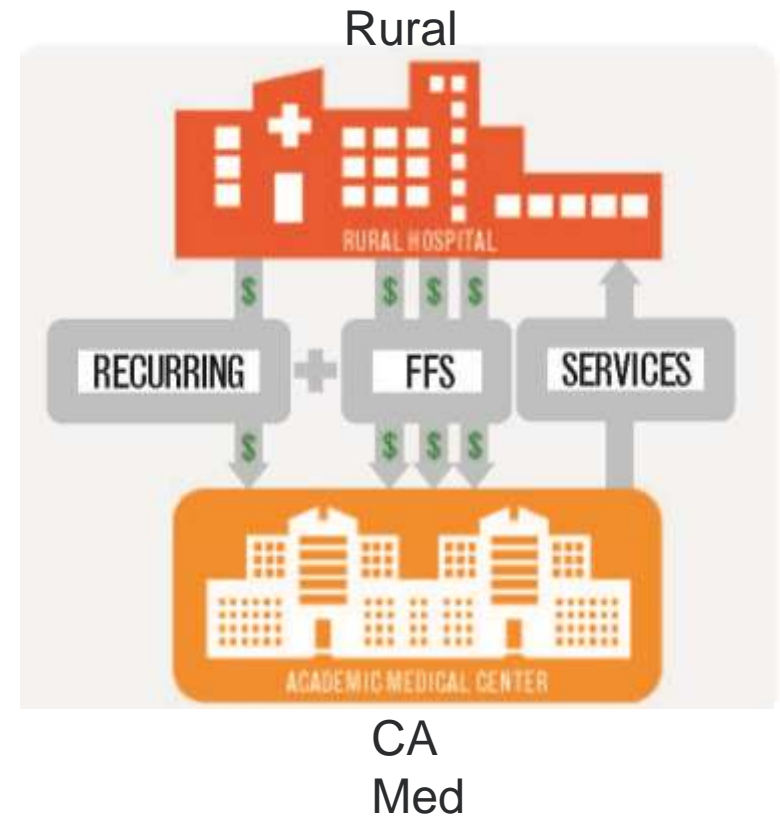
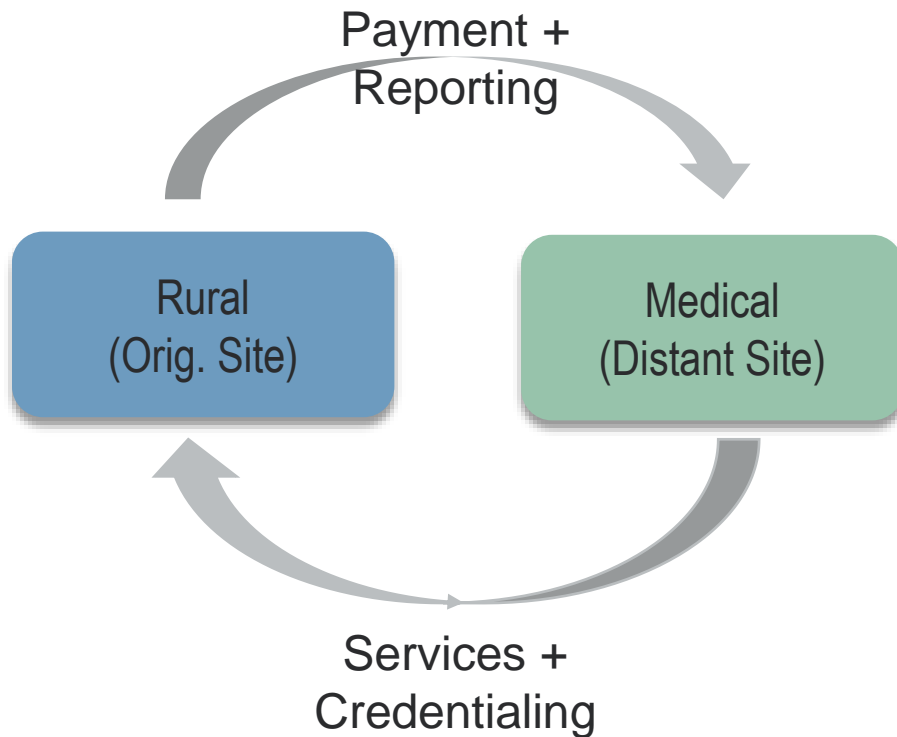
Direct to Consumer Telemedicine and eCommerce Considerations

- Website Terms of Use
- App end user licensing agreement
- Online Privacy Policy
- ADA accessibility and disclosures
- TCPA and text messaging
- Self-pay agreement



Building & Negotiating a Telehealth Contract

Our Hospital Telehealth Contract



The Parties

THIS [Type] TELEMEDICINE SERVICES AGREEMENT (the “Agreement”) is made and entered into as of _____, 2018 (the “Effective Date”), by and between California Medical Center (“CA Medical”), and CA Rural Hospital (“CA Rural”), for the provision of _____ Telemedicine Services (as defined below herein).



Services

- Engagement and Description of Services
 - Use Exhibits to outline services
- Rural hereby engages CA Medical to provide professional _____ services via telemedicine (the “Services”), as more fully described in Exhibit __ attached hereto and incorporated herein by this reference, during the term of this Agreement, and CA Medical hereby accepts such engagement, on the terms and conditions set forth herein.

Modular, adaptable
contract architecture

Services – example of description

Telemedicine-Based Physician Consults. Telemedicine-based physician consults are consultative services rendered by means of medical information exchanged via electronic communications by and between any Rural treating physician and related medical staff and a CA Medical Physician.

These consults may include telemedicine-based examination, history taking, diagnostic protocols (paper and/or computer driven), imaging analysis and recommendations for therapeutic interventions and/or diagnostic tests related to neurology. These consults may include specialty consulting, such as peer-to-peer consultations. These consults also include videoconferencing and teleconferencing, including the discussions between the CA Medical Physician and the patient or patient's family members, as appropriate.

The role of the CA Medical Physician is advisory, and Rural understands that its own physicians remain ultimately responsible for exercising independent medical judgment regarding any advice or recommendations received.

Staffing

Staffing. CA Medical will identify a core group of CA Physicians to provide Services under this Agreement. In the event that CA Medical and Rural mutually agree, CA Medical may provide non-physician providers (“CA Providers”) to assist in the provision of Services. Such CA Providers will be subject to such similar qualifications and standards requirements applicable to CA Physicians provided herein.

Removing & Replacing
Staff

Qualifications

Qualifications. Each CA Physician who provides Services shall be duly licensed and qualified to practice medicine in CA, and to apply for, obtain, and maintain in good standing appointment to the medical staff of Rural and clinical privileges commensurate with his/her patient care responsibilities in accordance with Rural's credentialing policy, medical staff bylaws, and rules and regulations. Each CA Physician shall be board-eligible or board-certified in _____.

Remember:
credentialing by proxy
option

Coverage & Service Levels

Coverage. During the term of this Agreement, CA Medical shall make available CA Physicians (as hereinafter defined) to provide coverage to Rural for Services on a twenty-four (24) hour per day basis, seven (7) days per week. The term “CA Physician” shall mean a duly licensed and qualified physician employed by or contracted with CA Medical and authorized to provide Services at Rural.

Response time
requirements & penalties

Coverage & Service Levels

There are no limits on the number of telemedicine-based physician consults provided under the Agreement, provided that the volume of requests does not exceed the current level of resources CA Medical can devote to Services under this Agreement, and that Rural understands and agrees that CA Medical is not responsible for unavailability of the Services due to errors, delays, or failures in communication systems or equipment or unexpected volume beyond its control.

Rural acknowledges and agrees that CA Medical shall not be responsible for not performing, or for a delay or interruption in performing, the Services if due to a network communications error, failure or interruption between Rural and CA Medical.

Telehealth Equipment & Software

Telemedicine Equipment & Software. CA Medical shall provide certain telemedicine equipment, software, supplies, and support services to enable CA Medical to provide the Services at Rural.

Rural shall not use, or allow anyone else to use, the telemedicine equipment and software for any purpose other than for CA Medical to provide Services under this Agreement. Each party, at its own expense, shall provide adequate IT and technical support staff at their respective locations to enable the CA Medical to provide Services to Rural under this Agreement.

Warranties

Address any needed warranty disclaimers:

- Equipment is provided AS IS.
- CA Disclaims all warranties and Rural acknowledges and agrees that use of equipment and services is at its sole risk.
- No warranty of equipment compatibility.
- No warranty of uninterrupted access.
- No error free or virus warranty.

Also consider: third party disclaimer, limitation of liability

Records

Ownership vs. Access

Records and Reports.

- Each party shall create and maintain, medical records of all examinations, treatments, procedures, and other clinical services the parties provide.
- Rural shall permit CA Medical access to Rural's electronic health records system to access appropriate medical records of Rural, and CA Medical shall permit Rural access to the medical records CA Medical creates in connection with the Agreement.
- CA Medical shall have the right and duty, during and after the term of the Agreement, to maintain and retain health information and records of the patients it provides clinical services to at Rural's location(s).

Privacy and Security

Consider clause for de-identified data and future uses

Ensure compliance with HIPAA and State laws:

“CA Medical and Rural agree to comply with all applicable federal and state laws and regulations relating to the maintenance, uses and disclosures of protected health information, including without limitation the Health Insurance Portability and Accountability Act of 1996, as codified at 42 USC § 1320d through d-8 (“HIPAA”) as amended by the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 and any current and future regulations promulgated thereunder, including the federal privacy regulations contained in 45 C.F.R. Parts 160 and 164, the federal security standards contained in 45 C.F.R. Parts 160, 162 and 164, and the federal standards for electronic transactions contained in 45 C.F.R. Parts 160 and 162, all collectively referred to herein as “HIPAA Requirements.” The parties agree to enter into any further agreements as necessary to facilitate compliance with the HIPAA Requirements.”

Compensation

Stark Law & Anti-Kickback Considerations

- Set forth compensation in advance. Describe in an Exhibit to the Agreement.
- CA Medical provides Rural with invoices for any fees or expenses.
- Overdue payments shall bear interest at a rate of one and one half percent (1.5%) per month (or such lesser rate as may be the maximum permissible rate under applicable law).

“The waiver/reimbursement of hospital or medical staff dues at Rural for the Services under this Agreement has been incorporated into CA Medical’ compensation. The costs associated with the telemedicine equipment, software, supplies, and support services provided by CA Medical to Rural have been incorporated into CA Medical’ compensation.”

Telehealth Billing Rights

No Reassignment Here

Professional Fees and Billing.

- CA Medical establishes its own fees for professional services.
- CA Medical has the sole and exclusive right to bill and collect all its own professional fees for professional services rendered.
- Rural will not bill for or collect any professional fees for professional services rendered hereunder by CA Medical.
- Rural has the right to bill for and collect all other fees (e.g. technical fees) as it deems fit in its sole determination.
- CA Medical makes no representation or warranty as to whether or not any of the services provided are covered by any third party payors, governmental agencies and other financially-responsible parties.

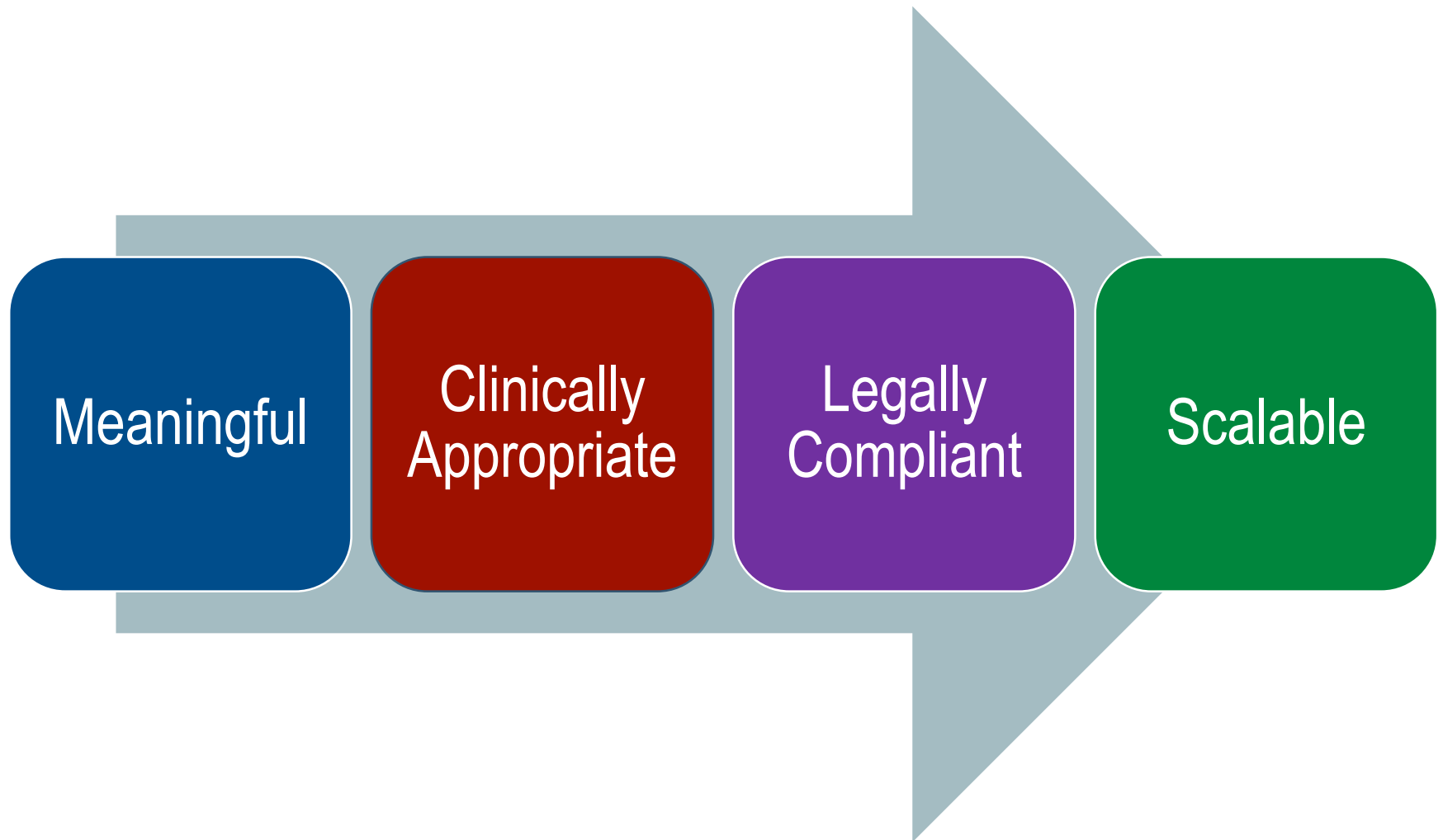
Other Considerations

See Handouts for
Checklists

- IP & Proprietary Information
- Confidentiality
- Telehealth Practice Standards
- Publicity
- Choice of Law/Venue
- Dispute Resolution
- Indemnification and Insurance
- Licensing Agreements



Build a Telemedicine Offering That Is...



Speaker Contact



Nathaniel Lacktman, Esq.

Partner

Chair, Telemedicine Industry Team

Co-Chair, Digital Health Group

813.225.4127

nlacktman@foley.com

www.foley.com/telemedicine

www.healthcarelawtoday.com

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Licensure and Practice • Concierge Medicine • Privacy and Security

Speaker Contact



Monica Chmielewski, Esq.

Partner

Co-Chair, Digital Health Group

Vice Chair, Health Care Industry Team

312.832.4556

mchmielewski@foley.com

www.foley.com/telemedicine

www.healthcarelawtoday.com

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Thank you

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