

Committee to Evaluate Telemedicine for Aid-in-Dying Requests in the Context of the Coronavirus Epidemic.

Telemedicine Policy Statement, March 25, 2020

In light of the coronavirus crisis, a committee has been convened to establish recommendations pertaining to the use of telemedicine to evaluate patients' requests to consider medical aid in dying. (See below for members of the policy committee.)

For the purposes of this policy statement, "telemedicine" and/or "telehealth" refers to a visual and verbal patient contact by electronic means, without an in-person visit.

Long before the onset of the coronavirus pandemic, many established aid-in-dying clinicians used telemedicine visits to evaluate select aspects of terminally ill patients' requests to consider medical aid in dying. Given the need to limit in-person contacts to decrease the speed of contagion of coronavirus, an increased use of telemedicine for select aspects of aid-in-dying evaluations and care is recommended.

Basis for the Recommendations:

These recommendations are based on review of Medicare recommendations for the increased use of telemedicine, with the full understanding that Medicare does not participate in aid-in-dying evaluations, care, or billing. However, the Committee's policy statement seriously considers Medicare's role in establishing standards of care and practice across the country. Medicare has conveyed a sense of urgency in expanding telemedicine services as part of legitimate practice during the coronavirus public health crisis.

- <https://tinyurl.com/AID-Telehealth-Medicare>: *"...the Centers for Medicare & Medicaid Services (CMS) has broadened access to Medicare telehealth services so that beneficiaries can receive a wider range of services from their doctors without having to travel to a healthcare facility...These visits are considered the same as in-person visits..."*
- Medicare notice to patients: *"If you have an existing healthcare appointment, or think you need to see your doctor, please call them first to see if your appointment can be conducted over a smartphone with video capability or any device using video technology, like a tablet or a laptop. For some appointments, a simple check-in over the phone without video capabilities may suffice."*

The Committee has also sought guidance from published materials on telemedicine by the National Hospice and Palliative Care Organization (NHPCO):

- *"Best Practices for Using Telehealth in Palliative Care"* (<https://tinyurl.com/NHPCO-Telemedicine>): *The use of telehealth has many benefits for patients and healthcare organizations. Many patients experience the immediate benefits of telehealth ... Improved Quality: Timely intervention in a patient's home improves clinical outcomes and increases patient/family satisfaction due to real-time connection.*

The Committee's recommendations for the use of Telemedicine in aid in dying evaluations are based on the goals and requirements of the attending and consulting physicians:

- Establish the diagnosis, prognosis and decision-making capacity of patients considering medical aid in dying

- Advise these patients of their varied options for care as they approach death
- Inform the patients of the relevant details about medical aid in dying
- Respond to questions, and assist the patients in final decision making

Recommended Guidelines:

(NOTE: In some states, the use of telemedicine may be constrained by the aid-in-dying statute, by implementing regulations, or by laws on telehealth generally. If in doubt, please review your particular state aid-in-dying laws.)

Given the above, as well as the review of other materials and opinions from leading practitioners and organizations, the Committee recommends the following in respect to telemedicine for aid-in-dying evaluations, especially during the coronavirus epidemic:

- **First verbal requests** to consider medical aid in dying can effectively and legitimately be taken by telemedicine if they:
 - Establish patient identification, and document the encounter in the medical record.
 - Perform a concise history of present symptoms and treatments from the patient, including palliative care modalities in effect.
 - Note the components of a physical examination that are possible via telehealth: Observation of affect and mental clarity; observation of position and mobility; observation of respiratory rate and discomfort; limited observation for jaundice, cyanosis, pallor, rashes. (Note: Some state aid-in-dying laws do not require a physical examination before taking a first verbal request.)
 - This exam can be supplemented by chart notes of other practitioners who have directly examined the patient, including hospice physicians and nurses, primary care providers, specialist providers.
 - Chart documentation should reflect that this first verbal request is to be augmented during the subsequent waiting period by review of the patient's relevant medical records.

The combined methods above are sufficient to verify diagnosis, prognosis, and decision-making capacity, and to legally establish the patient's first verbal request and the start of the waiting period.

- **Second verbal requests** to consider medical aid in dying can effectively and legitimately be taken by telemedicine, and/or (at the practitioner's judgment and discretion) by telephone without visual contact.
- **Physical examinations:** When possible, physical examinations are best performed in person. However, at the practitioner's judgment and discretion, a telemedicine physical exam that includes the components noted above can be performed and is adequate if it establishes or confirms the diagnosis, prognosis and decision-making capacity of the patient.
 - When possible, the aid-in-dying clinician should include the exams of other clinicians who have recently seen the patient to confirm and/or augment their telemedicine findings. This especially applies to examinations by hospice staff who are visiting the patient in person. The Committee recommends that close communication be maintained between on-scene hospice staff and the aid-in-dying clinician.

- **Attending the patient on the aid-in-dying date:** It is very helpful to offer the patient and family the physical, telemedicine or telephone presence of a clinician (physician, hospice RN/LVN, hospice SW, or trained aid-in-dying volunteer) on the day of death. This will decrease the anxiety of patients and family members, improve the quality of the procedure and decrease risks, and allow the family to be more fully present emotionally with the patient on the day of their death.
 - During coronavirus times, telemedicine with the patient and family on the aid-in-dying date is highly recommended rather than a physical presence. This decision is at the discretion of each practitioner.

The Committee concludes that there is nothing inherent in an aid-in-dying request that prohibits or discourages the use of telemedicine. In fact, in present circumstances of potential contagion, increased use of telemedicine is encouraged.

For technical details on initiating and/or maintaining Telemedicine in your practice:
<https://tinyurl.com/MedscapeTelemedicine>

4/3/20 An update to California's Telemedicine Law during the coronavirus epidemic: <https://www.gov.ca.gov/wp-content/uploads/2020/04/4.3.20-EO-N-43-20.pdf>

Respectfully submitted by the Committee to Evaluate Telemedicine for Aid-in-Dying Requests in the Context of the Coronavirus Epidemic.

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