

# TELEHEALTH POSITION STATEMENT

## I. INTRODUCTION

Iagnosis has developed DermatologistOnCall® to allow independent board certified dermatologists to provide teledermatology services to their patients utilizing a web-based service platform incorporating the latest technologies for EHR and telehealth purposes and expand access to this constrained medical specialty. Over the last several years, telehealth has emerged as a preferred model for achieving the goals of healthcare reform and expanding the delivery of quality healthcare throughout the country. DermatologistOnCall® provides a state of the art web-based service platform allowing physicians to:

1. Enhance patient access to quality health care and patient satisfaction;
2. Improve population health; and
3. Improve efficiency, reduce cost, and provide significantly enhanced timeliness of care.

The purpose of this Telehealth Position Statement is to establish that broad utilization of the DermatologistOnCall® care platform and associated services advances the Triple Aim of all healthcare reform proposals in a manner that should more than satisfy all regulatory and other licensing concerns.

It is critical to distinguish the management service organization (MSO) functions provided by Iagnosis as a web-based service platform from the actual medical services provided by participating physicians, who are independently providing healthcare. This distinction is critical because the patients will continue to be protected through traditional medical licensing mechanisms uniformly and successfully applied by the various boards and licensing entities of the various states. The DermatologistOnCall® platform and the MSO functions provided by Iagnosis® allows independently enrolled and appropriately licensed board certified

dermatologists, to provide teledermatology services to patients on a self-pay basis in the state of residence during the period of care for the patient.

All physicians will be board certified in dermatology and appropriately licensed in those states, and will be subject to medical license regulation to the same extent that they would have been had they seen those teledermatology patients in their offices. These physicians will either be physically located and licensed in a state or the physicians will fully comply with all applicable licensing pertaining to telehealth licensing requirements. The DermatologistOnCall® virtual office platform facilitates an online, near real time interactive visit between a patient and dermatologist which more than satisfies the minimum standard of care by:

1. Properly obtaining a complete medical history and medical examination (via images-analogous to radiologist or pathologist analyzing images) utilizing asynchronous *store and forward* technology;
2. Allowing board certified dermatologists to render a competent diagnosis with the ability to request additional images or information to render such a diagnosis;
3. Providing advice and professional medical disease/diagnosis specific counseling information for each diagnosis;
4. Fully documenting the medical history, dermatological examination, and treatment/counseling plan; and
5. Providing additional engagement opportunities for the patient to communicate directly with the dermatologist via secure messaging;
6. Allowing the physician the opportunity to determine that the specific case is inappropriate for online care and schedule an in office, face to face, examination.

It is well established that this interaction completely satisfies the appropriate standard of care for dermatological treatment of these cases.

## **II. IMPORTANCE OF TELEHEALTH**

The emergence and benefits of telehealth technology make it essential that state regulatory policy both recognize the immense potential healthcare benefits to the population and clearly distinguish between legitimate telehealth platforms, which serve to connect patients to legitimately licensed physicians, as opposed to unregulated internet sites which exist solely to sell products and other pharmaceuticals.

Telehealth is universally recognized as an effective means of delivering healthcare services to the public using rapidly advancing information, communication, and digital technologies that enable the diagnosis, consultation, treatment, education, care management, and self-management of patients, at a distance from healthcare providers. This broadly used cutting-edge technology (e.g. Smartphones, Tablets, Computers and Internet) allows services to be accessed when providers and patients are in different physical locations, facilitates patients' self-management and caregiver support for patients, and includes synchronous (live interactive) and asynchronous (store and forward) interactions. It should be used broadly to include the full range of interactive services where the term "interactive" stands for audio, video, or data communication (telephone and e-mail) involving a real time (synchronous) or near real-time (asynchronous) transfer of medical data and information. Store and forward Teledermatology is extremely cost effective, portable, requires less equipment and technology and less administrative overhead and support as compared to live interactive teledermatology. Store and Forward implementations offers greater scheduling flexibility for patients and dermatologists since coordinated appointments between a patient and specialist are not required as compared to live interactive. We submit that Store and Forward Teledermatology is the optimal direct-care model.

Telehealth is a legitimate means of providing services that will reduce costs, improve the quality of healthcare, and improve access for patients to, especially since board certified dermatologists are relatively scarce and therefore less available than most other physician specialties in not only rural areas that are underserved by the medical community, but also in suburban and urban populations. The intent of telehealth technologies is not to replace in-office care, but to augment and expand access to this increasingly constrained specialty and serve as one more tool to expand the delivery of high-quality and efficient medical care as a medically appropriate and economically sustainable solution for expanding healthcare in a time of limited resources.

### **III. IAGNOSIS SERVICE PLATFORM**

The DermatologistOnCall<sup>®</sup> telehealth service is a platform accessed by consumers and participating physicians through a website designed and maintained by Iagnosis<sup>®</sup>, a market leader in facilitating online dermatology. This platform includes elements of medical education for consumers and participating physicians along with electronic health records (EHR) for the consumers who choose to create them and the participating physician selected by the consumer to provide a telehealth consultation.

The EHR component is a combination of a proprietary data repository of all the important patient medical information to facilitate quality dermatological care, two way connectivity between third party vendors such as DrFirst/Surescripts and participating physicians to enable nationwide electronic prescribing, and an associated database that houses information and controls efficient, effective, and secure care communication (treatment plan and two way messaging) between a patient and a participating dermatologist to optimize care outcomes in the internet setting. This EHR component of the platform is a smaller scale version of the state and federal health information exchanges being created as central repositories for patient electronic health information, as well as connectivity to other systems for much broader health care use, and is fully secure and HIPAA and HITECH compliant.

Finally, DermatologistOnCall<sup>®</sup> provides certain management services to the participating physicians. In addition to the EHR function described above, the DermatologistOnCall<sup>®</sup> platform provides the following management service organization (MSO) administrative services to participating physicians:

1. Patient intake
2. Scheduling
3. Patient education
4. Eprescribe
5. Billing and collection
6. Patient communication

In essence, the integrated EHR component functions as a data repository and online tool to enable the participating dermatologist to provide an initial online diagnosis and consultation (comprehensive treatment plan) to the patient without the need for the patient to visit the dermatologist. Given the constrained nature of this medical specialty, expanding the access to care and increasing the productivity of a dermatologist can and will save lives and lessen the progression of many dermatological conditions. Consider, melanoma, a deadly form of skin cancer, in many cases, waiting for an in office visit could put a patient's life at risk. Therefore, this platform will allow patients to access care in the early stages of skin conditions by facilitating treatment before a condition may escalate and potentially pose a greater threat to the patient's health, requiring more costly measures to treat.

#### **IV. REGULATORY ENVIRONMENT.**

##### **A. Fee splitting and Self Referral Issues:**

State and federal regulation regarding healthcare business ventures have traditionally been focused upon preserving healthcare quality through state licensing requirements and discouraging or prohibiting self-referral arrangements that incentivize or reward over-utilized and medically unnecessary care. In this new area of telemedicine and health information technology, as manifested by EHR, health information exchanges, national vendors, and mandatory "meaningful use" participation, all physicians are financially challenged to obtain affordable access to this technology.

As all are aware, promoting EHR adoption was the fundamental purpose for the Medicare Regional Extension Center Program, which was designated and funded to subsidize physician acquisition of electronic health records and encourage meaningful use. Iagnosis<sup>®</sup>, the company offering DermatologistOnCall<sup>®</sup>, recognizes the traditional concerns regarding fee splitting that are sometimes suspected when physicians are allowed to pay for services and

resources on a fee for service, or “per click” basis; this is the reason there are Fraud and Abuse Safe Harbors and Stark leasing exceptions. Iagnosis has therefore taken significant steps to assure that none of those financial incentives are present in this model because the patients control the selection of the physicians and retain responsibility and discretion regarding the extent of the medical care and treatment they receive.

- There are no payments for referrals because there are no referrals; the patients fully control the process by deciding if and when they need care for their condition.
- The fees paid by the patient, which are billed and collected by DermatologistOnCall®, are uniform nationwide fees knowingly approved and paid by the patients on a self-pay basis. One of the key components of all healthcare reform is to instill a level of patient accountability through financial responsibility.
- The fees paid by the physician are transparent, applied uniformly on a nationwide basis and reflect our client’s costs through its contracts with bona fide third party vendors such as DrFirst / Surescripts, Heartland Payment Systems (ECSI), Expedient (Continental Broadband) and NetSuite.

Physicians who participate in DermatologistOnCall® pay a monthly access fee to maintain enrollment in the various license packages regardless of patient volume or activity and a fee per episode of care for the resources utilized, i.e. billing, patient/provider education, platform hosting, customer service, and EHR access. This is typical medical practices paying for billing services (which are typically a percentage of collections), supplies, and high tech equipment rental (which have traditionally been paid on a per click basis).

The enrolled patients have complete autonomy and discretion with respect to the utilization of physician services.

- The patients determine whether they want medical services because they can take advantage of the free patient education resources available on the public DermatologistOnCall® website, and then at their discretion, choose to create a DermatologistOnCall® account and start a care visit or choose not to request services.
- The patients are given the opportunity to select who will provide the care -- they can choose the dermatologist they prefer out of the panel of participating dermatologists or simply receive care by the next available participating dermatologist.
- Patients are able to maintain continuity of care with their DermatologistOnCall® dermatologist for recommended follow-up visits or future visits. Or, patients can at any time select a new dermatologist from the DermatologistOnCall® network for care.
- Finally, patients can decline care at any time, particularly since this is a self-pay service and the traditional concern regarding medically unnecessary services unimpeded by any type of co-pay or referral requirements are not present.

There are clearly none of the traditional perceived abuses or concerns related to traditional fee splitting issues or medically unnecessary services, excessive utilization, or hidden financial incentives possible in the utilization of the DermatologistOnCall® care delivery platform.

B. Eprescribing (eRx).

One of the fundamental components of almost every healthcare reform proposal is to facilitate cost effective and timely care through the utilization of improved technology, including both EHR and eprescribing capability. In fact, the Medicare meaningful use requirements include eprescribing capability, and both the Medicare Fraud and Abuse Safe Harbors and the Stark Physician Self-Referral Exceptions provide a specific process for expanding eprescribing

technology. The use of eprescribing technology is being encouraged nationally on a regulatory and clinical basis, but utilization is hindered by prescribing regulations that require face-to-face physician-patient visits or encounters. These regulations have historically been seen as necessary and appropriate to police internet-only pharmacies created to stimulate the unrestricted sale of pharmaceutical products by entities and individuals who have not been scrutinized, vested and licensed by state medical and pharmaceutical licensing authorities.

These concerns are important and legitimate concerns, but they are inapplicable to the DermatologistOnCall<sup>®</sup> platform for two obvious and significant reasons:

1. Medical care may only be provided by physicians who are licensed to practice medicine in the state in which the patient is physically present and prescriptions will be issued only after that physician has determined, in accordance with their best professional judgment of that physician, that the prescription is medically appropriate.
2. Prescriptions may only be electronically transmitted to pharmacies that have been selected by the patient and which are licensed as pharmacies in the appropriate state, and narcotics and controlled substances can not be prescribed using this platform.

## **V. CONCLUSION.**

In summary, we believe Iagnosis<sup>®</sup> through their comprehensive virtual care platform - DermatologistOnCall<sup>®</sup> has clearly addressed the key patient protection goals of the regulatory environment:

1. Iagnosis is not a healthcare provider; it is an advanced technological service provider that offers certain MSO administrative services and the DermatologistOnCall<sup>®</sup> platform that enables independent participating board certified dermatologists to practice teledermatology.
2. All participating dermatologists will be individually licensed in accordance with the medical licensing requirements of the state in which the patient is located while receiving care.
3. The contractual relationships between DermatologistOnCall<sup>®</sup> and the participating dermatologists is governed by a transparent contractual relationship applied uniformly on a nationwide basis.
4. The DermatologistOnCall<sup>®</sup> platform is not designed to direct patients to dermatologists in exchange for referral remuneration. All patients are free to select their own dermatologist; only if they decline to select a dermatologist or choose to be treated by the next available dermatologist will they be placed in queue for selection. This default option is designed only as a fail safe mechanism to avoid delays in delivery of care.

5. Prescriptions are issued by dermatologists only after the physician, who is subject to the medical practice regulations of the applicable state, has decided, in that physician's independent judgment, that the prescription is medically appropriate and excludes prescriptions for narcotics and controlled substances.. The patient will select the pharmacy at which any prescription will be filled.