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Managing Risk When You Reopen Your Practice

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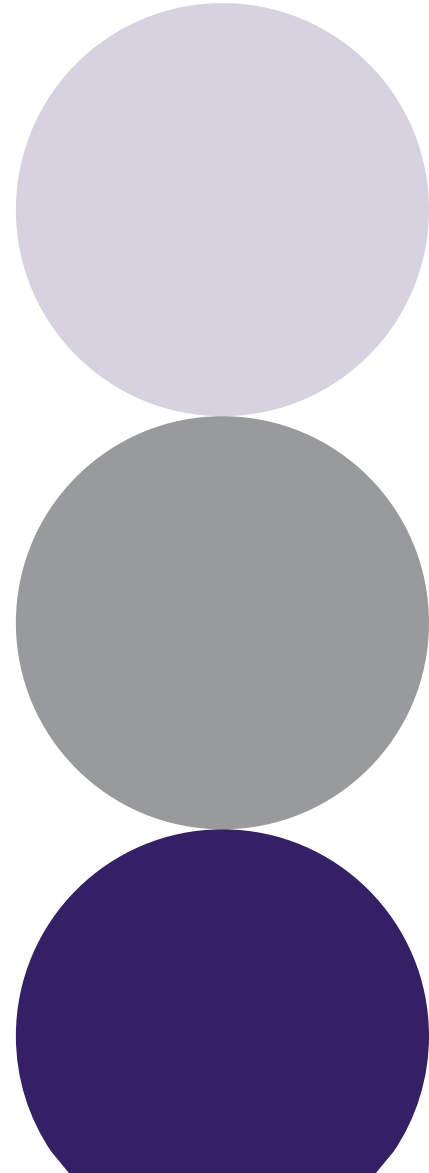
Risk Management Committee Chair 2020-

Linda D. Harrison, PhD

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OMIC

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Dr Tigani and Dr Harrison have no disclosures.



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Telemedicine Risks

1. Privacy

2. Documentation

- of privacy limitation, charge for visit, not a substitute for in-office evaluation
- patient agreement to these limitations

3. Data Accumulation

- incomplete or inaccurate

4. Diagnosis Error

5. RULES WILL KEEP CHANGING!



HIPAA Requirements



- In light of the COVID-19 nationwide public health emergency, the Department of Health and Human Services Office for Civil Rights (OCR) is exercising its enforcement discretion and will not impose penalties on physicians using telehealth in the event of noncompliance with the regulatory requirements under HIPAA as long as the platform used is not public-facing.
- Allowed platforms that are not HIPAA compliant include FaceTime, Facebook Messenger video chat, Google Hangouts video, Skype and text. Public facing platforms that are not allowed are Facebook Live, Twitch, and TikTok because they let others to view an exchange.





Liability/Legal

- **Best practice:** obtain consent and remind patient this communication is not the same as a face-to-face exam. Document medical record with appropriate verbiage, e.g., “Patient initiated a request for care and consented to care by phone.”
- **State Requirements for Telehealth**
 - The Center for Connected Health Policy is posting national as well as [state-by-state fact sheets](#).
- **Contact**
 - Have questions? Send comments and questions to aaoe@aao.org

Copied from [AAO.org](#), [COVID-19 Resources](#), [Coronavirus and Eye Care](#)





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Telemedicine Tips



1. EHR shortcuts incorporating language that all issues listed on prior pages and informed consent were reviewed with patient.
2. If you have a particularly challenging patient, make additional notes in history, or ask someone else at home to join the discussion, or convert to office visit.
3. Have the patient stand near window for best illumination.
4. Record meticulous notes on differential diagnosis and discussion with patient, signs and symptoms for patient to call immediately, and schedule call-back to reevaluate problem.



Telemedicine Consent

- OMIC telemedicine consent:
 - <https://www.omic.com/telemedicine-consent-form/>
- Obtaining telemedicine consent for the first time
- Verbal consent only
- Obtaining a signature
- Document consent in the medical record



Informed Consent: rescheduled surgery

- OMIC website has informed consent for elective procedures during COVID-19 pandemic: <https://www.omic.com/covid-19-consent/>
- Dilated exam less than 90 days before surgery
- **ALL** patients COVID-19 tested 2(?) days before surgery.
- Some eye MDs have found that patients more comfortable if doctor reviews changes to surgery center protocols and new precautions implemented such as temperature screening of staff, no waiting rooms, and decreased case load per MD per day.
- Should recovered COVID-19 patients have elective procedures at ASC?





Informed Consent: rescheduled surgery

- OMIC informed consent for elective procedures during COVID-19 pandemic
 - <https://www.omic.com/covid-19-consent/>
 - Requirement varies by state

- When to renew a consent
 - Surgical plan has changed
 - Patient's risks have changed
 - Patient does not appear to recall details of prior consent discussion
 - If in doubt, review





Conclusions

- **Stay informed**
 - Register for automatic updates from
 - AAO
 - CDC
 - your state health department website
 - subspecialty societies
- Communicate with your local hospital and ASCs

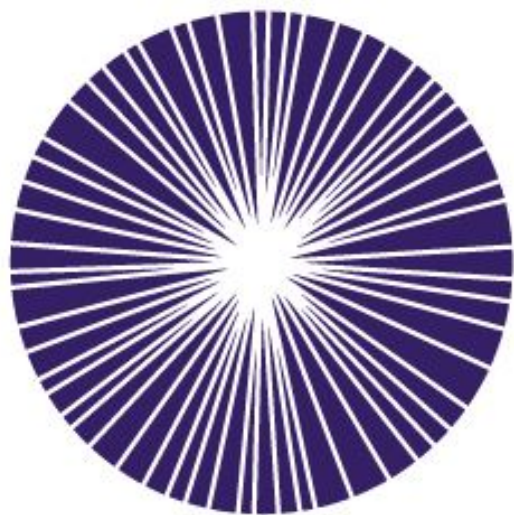




Conclusions

- Your normal best practices should remain in place
 - Telephone and remote screening
 - Good documentation
 - Trust your judgment
- Likelihood of lawsuits alleging patient contracted COVID-19 during treatment
 - Consensus of opinions
 - Does your professional liability insurance cover you?





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