



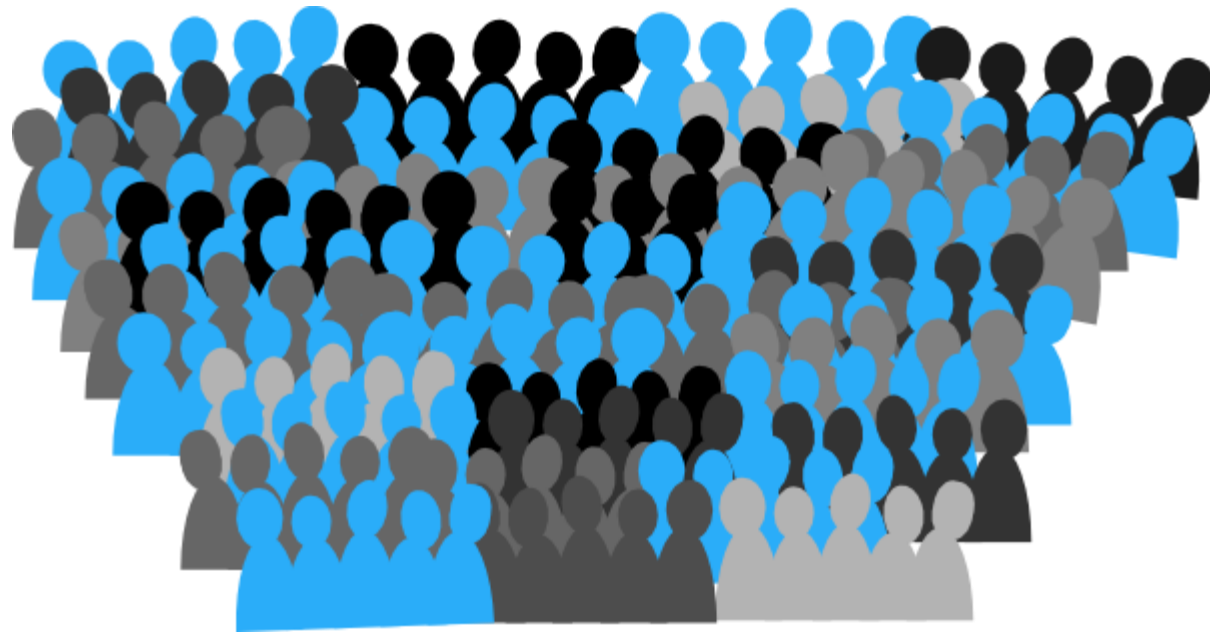
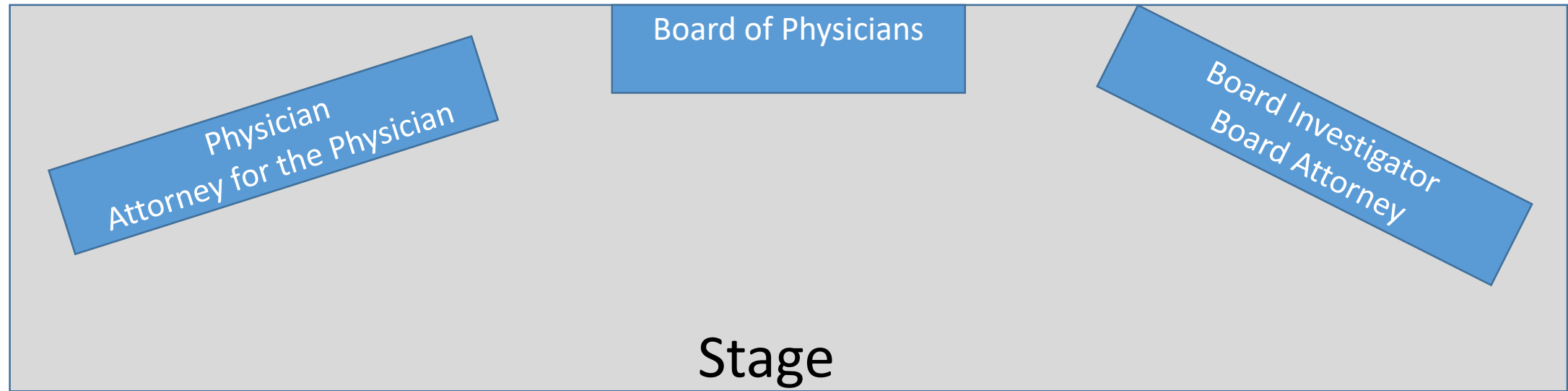
Mid-Atlantic
Telehealth
Resource Center

MATRC 2018

TELEHEALTH SUMMIT

Telehealth *on*
TRIAL

“Telehealth and the Adherence to the Standards of Care”



Audience:
Act as members of the
Board of Physicians

Disclaimer #1

- The actors in this skit ... are NOT actors
- The actors are everyday Joes ... and Josephines

SO CUT THEM A BRAKE

Disclaimer #2

- Some of the characters may seem to be imperfect: they are
- One of our actors is an unbelievably good Telemedicine Provider
- She HATES portraying the loser

CUT HER A BRAKE

Disclaimer #3

- This skit is totally fictitious
- The situation is totally fictitious
- The names are obviously fictitious
- It is all made up
- Any similarity to real persons is totally and absolutely coincidental

SO, THERE!!!

Telehealth on Trial

Starring

Dr. Pompass: Chairman of the Board of Physicians:

Played by Neal Reynolds

Mr. Gorka: Investigator for the Board of Medicine:

Played by John Kornak

Counselor Smartsky: Attorney for the Board:

Played by Emily Wein

Dr. Imreldm: Physician

Played by Kerry Palikanis

Counselor Losemal: Attorney for the Physician

Played by Jon Joseph

TELEHEALTH ON TRIAL

Deliberative Thoughts from the Board,
played by the audience



TELEHEALTH ON TRIAL

Board Chairman Commences Hearing

TELEHEALTH ON TRIAL

Board Attorney, Counselor Smartsky,
examines Investigator

TELEHEALTH ON TRIAL

THE CASE

- 10 year old boy sent home by the school nurse on November 12, 2017
- Mother, Betty McGee brought the boy, Robert (Bobbie) McGee immediately to the Quickie Pharmacy Kiosk at the Super Mega Mall
- Betty summoned the remote doctor who appeared on the screen nearly immediately, Dr. lamreldm
- Mother reported that Bobbie had been feeling poorly for 2-3 days, achy muscles (myalgias), sneezing, runny nose and fevers
- The temperature is 39.4 degrees centigrade
- Dr. lamreldm asked about sore throat, Robbie thought he did have a sore throat
- Dr. lamreldm did a light-assisted examination of the pharynx, thought the throat was inflamed, diagnosed bacterial pharyngitis, and prescribed an antibiotic: amoxicillin

TELEHEALTH ON TRIAL

THE CASE

- Seeing that Bobbie seems a little Short of Breath, Dr. lamreldm recommends that they go to an emergency room for a Chest X-Ray
- Betty declines saying that... “everything will be fine as long as he has antibiotics”
- Betty picks up the antibiotics right there at the Quickie Pharmacy.
- Robbie gets his first dose of amoxicillin almost immediately
- Mother and son go home, Robbie takes Tylenol, drinks some Gator Aid[©] and goes to bed at 4:00PM



TELEHEALTH ON TRIAL

THE CASE

- At 8:00pm Betty goes to Bobbie's room finds the boy to be unarousable
- Betty calls 911 for EMS; ambulance arrives within 7 minutes later
- The Paramedic cannot arouse Bobbie, find his Pulse Oximetry to be 68% and blood pressure to be 83/45 mmHg
- An Oxygen mask is applied to deliver 100% oxygen, IV fluids administered and the patient transported to the Local 125 bed community hospital arriving 22 minutes later
- In the emergency room, the patient is immediately intubated, placed on life support (a ventilator), given two more liters IV fluids, deep venous line placed and medications given to improve blood pressure



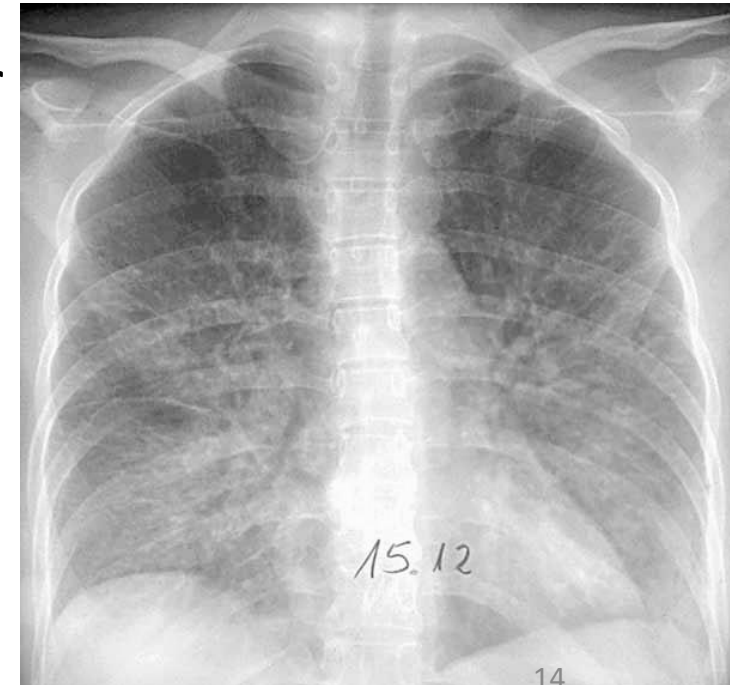
TELEHEALTH ON TRIAL

THE CASE

- Bobbie was found to have pneumonia and was swab positive for influenza A
- Emergency doctors could not achieve adequate oxygenation and decided to transfer Bobbie to the regional quaternary medical center
- Robbie was transported within 72 minutes via helicopter to the University of Everything Mega Medical Center for ECMO

EXTRACORPOREAL MEMBRANE OXYGENATION

Plastic or artificial lungs

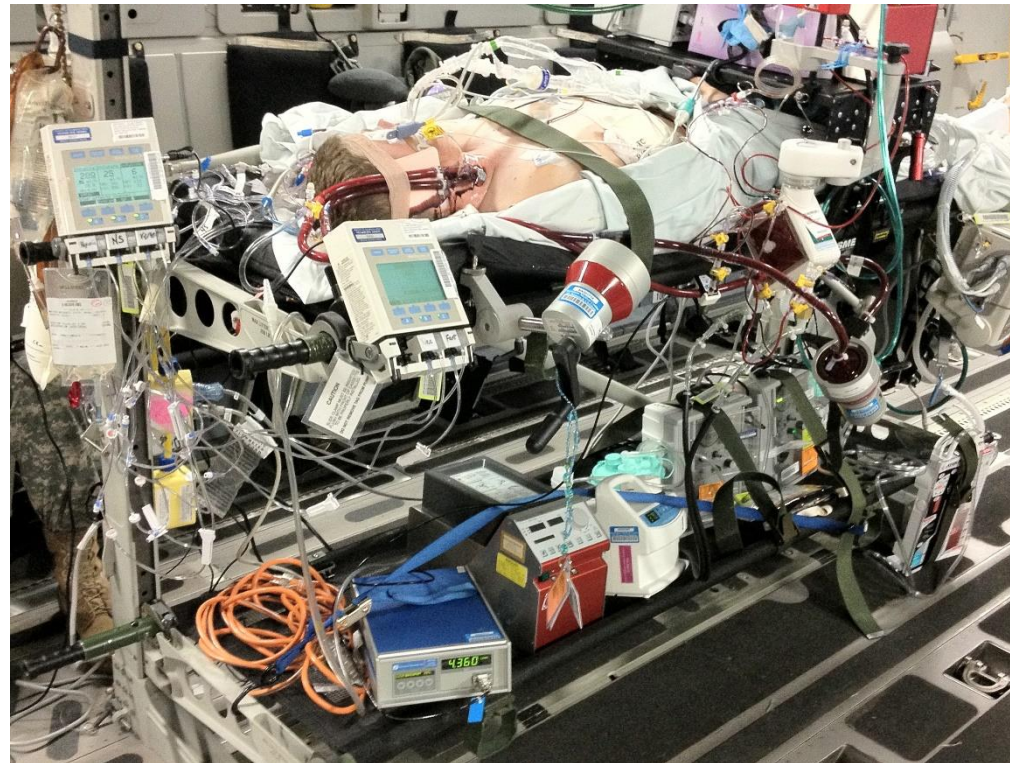


TELEHEALTH ON TRIAL

THE CASE

- Robbie was received at the University of Everything Mega Medical Center, rapidly cannulated for ECMO

(Insertion of large tubes to remove and return blood from the ECMO equipment)



TELEHEALTH ON TRIAL

THE CASE

- Over the next 4 days, Robbie developed Multiple Organ Failure refractory to all modalities of life support and died 108 hours after being seen at the Quickie Pharmacy Kiosk

TELEHEALTH ON TRIAL

Physician's Attorney, Counselor Losemal,
cross examines Investigator

TELEHEALTH ON TRIAL

Physician's Attorney, Counselor Losemal
examines Physician

TELEHEALTH ON TRIAL

Board Attorney, Counselor Smartsky,
cross-examines Physician

TELEHEALTH ON TRIAL

Board Deliberation

Questions for the Board

Should the Board Sanction **the Physician, Dr. Imreldm**?

Consider whether the physician failed to:

- Perform a good history
- Perform an adequate virtual examination
- Obtain the complete vital signs
- Examine for signs of low blood oxygen
- Get the Pulse oximeter
- Consider the current influenza epidemic

Questions for the Board

Should the Board Sanction **the Physician, Dr. Imreldm**?

Vote: yes or no



Questions for the Board

Is there contributory negligence by others not before the Board?

Quickie Pharmacy?

Consider whether the pharmacy:

- Failed to provide necessary equipment such as an electronic stethoscope or pulse oximeter
- Failed to provide a surrogate examiner
- Failed to limit either the number of hours a physician could work or limit the work load
- Put financial incentives before patient care

Questions for the Board

Is there contributory negligence by others not before the Board?
Quickie Pharmacy?

Vote: yes or no



Questions for the Board

Is there contributory negligence by others not before the Board?

TeleHealth Technology Vendor?

Consider whether the vendor failed to:

- Provide an effective Health Information Exchange (HIE)

(Had there been a good HIE, the Doctor would have known this child had chronic lung disease and had not had the influenza vaccine)

- Make the HIE easily accessible

(to slow to access, complex sign-ons, a history of mis-identifying patients)

Questions for the Board

Is there contributory negligence by others not before the Board?

TeleHealth Technology Vendor?

Vote: yes or no



Questions for the Board

Is there contributory negligence by others not before the Board?

The Parents?

Consider whether they:

- Failed to inform the physician that THEY had refused to give their son the influenza vaccine
- Falsely believed that all they needed was antibiotics
- Did not monitor their son close enough: waited too long
- Negligently sending their son to school that day knowing he was ill

TELEHEALTH ON TRIAL

Is there contributory negligence by others not before the Board?
The Parents?

Vote: yes or no



Questions for the Board

Was the disease (influenza) a contributor to the bad outcome?

Consider

- Influenza is a very bad disease: we are having the worst outbreak in years
- Some people will die... and that is that
- The influenza vaccine is only about 25% effective this year anyway

Questions for the Board

Was the disease (influenza) a contributor to the bad outcome?

Vote: Yes or No



TELEHEALTH ON TRIAL

Panel Discussion

TELEHEALTH ON TRIAL

The ***second issue*** of the ATA scientific journal began grappling with legal issues !!!!!



Gilbert F, JD. How to Minimize the Risk of Disclosure of Patient Information Used in Telemedicine. Telemedicine and e-Health 1995, Vol1(2): 91

Sanders JH, Bashur RL. Challenges to Implementation of Telemedicine. Telemedicine and e-Health 1995, Vol1(2): 115

TELEHEALTH ON TRIAL

Standard of Care

Is saturation monitoring a standard vital sign

https://www.hopkinsmedicine.org/healthlibrary/conditions/cardiovascular_diseases/vital_signs_body_temperature_pulse_rate_respiration_rate_blood_pressure_85,P00866: T, BP, RR, Pulse

https://en.wikipedia.org/wiki/Vital_signs :T, BP, RR, Pulse

<https://medlineplus.gov/vitalsigns.html> : T, BP, RR, Pulse

<https://www.merriam-webster.com/dictionary/vital%20signs>: T, BP, RR, Pulse

<https://my.clevelandclinic.org/health/articles/10881-vital-signs>: T, BP, RR, Pulse

<https://www.urmc.rochester.edu/encyclopedia/content.aspx?ContentTypeID=85&ContentID=P00866>: T, BP, RR, Pulse

<http://saem.org/cdem/education/online-education/peds-em-curriculum/upper-respiratory-infection>: T, BP, RR, Pulse ...& SpO2 if obtained

TELEHEALTH ON TRIAL

Standards of Care

Is auscultation of the lungs SoC for a URI

Lungs MAY (not “should”) be auscultated

https://www.emedicinehealth.com/upper_respiratory_infection/article_em.htm:

The emergency department practitioner SHOULD...auscultate the lungs

<http://saem.org/cdem/education/online-education/peds-em-curriculum/upper-respiratory-infection>:

The history and Physical examination most important elements to diagnose LRTI vs URI

<https://openaccess.leidenuniv.nl/bitstream/handle/1887/3732/02.pdf?sequence=12>:

TELEHEALTH ON TRIAL

Standards of Care

“...poor communication was responsible for causing between 44 000 and 98 000 patient deaths annually in American hospitals...”



Tarn S. An Examination of the Factors Contributing to Poor Communication Outside the Physician-Patient Sphere. McGill J Med Jun 2011; 13(1):86-

TELEHEALTH ON TRIAL

You (*a parent*) and your child have the responsibility to:

- Provide accurate, complete information about present complaints, past illnesses, hospitalizations, medicines and other matters related to your child's health that facilitate their care, treatment and services



Patient and Parent Rights and Responsibilities.

Childrens Hospital of Atlanta

www.choa.org/~media/files/Childrens/patients/patient-rights-eng.pdf?la=en

TELEHEALTH ON TRIAL

Standard of Care

“The standard of conduct to which one must conform... is that of a reasonable man(or woman) under like circumstances.”

Medical malpractice requires four conditions (elements) be met:

Establishing a duty to provide care

Breach of duty: synonymous with the “standard of care”

Harm

Causation.

The standard of care does not mean perfection in practice.

Moffett P, Moore G. The Standard of Care: Legal History and Definitions: the Bad and Good News. [West J Emerg Med](#). 2011 Feb; 12(1): 109–112

TELEHEALTH ON TRIAL

Standard of Care

“.....it is suggested that the legal principles that apply to the conventional, face-to-face, doctor-patient relationship are equally as valid in the context of the practice of medicine at a distance....”

The legal and ethical aspects of telemedicine: Telemedicine and malpractice. Journal of Telemedicine and Telecare. 1998 Vol 4 (2): 72-79

TELEHEALTH ON TRIAL

Re-Trial Vote

Should the Board Sanction the physician?

Vote: yes or no

Was Quickie Pharmacy contributory negligent?

Vote: yes or no

Was technology vendor contributory negligent?

Vote: yes or no

Were the parents contributory negligent?

Vote: yes or no



TELEHEALTH ON TRIAL

Final questions ??