



November 25, 2020

The Honorable Robert Hackett  
Ohio Senate  
1 Capitol Square  
Columbus, Ohio 43215

**RE: REQUEST SUPPORT FOR HB 679 WITH AM 3023-1 AND OPPOSITION TO AM 3334**

Dear Chairman Hackett,

The American Telemedicine Association (ATA) applauds the Ohio Senate for actively working to advance telehealth legislation. As the only organization completely focused on advancing telehealth, the ATA is committed to ensuring that everyone has access to safe, affordable, and appropriate care when and where they need it, enabling the system to do more good for more people. On behalf of the ATA, and the over 400 organizations we represent, I am writing in support of House Bill 679, which is now before your committee, as well as in opposition to AM 3334. Additionally, we are seeking your support for an additional amendment, AM 3023-1.

The ATA is committed to ensuring that everyone has access to safe, affordable and appropriate care when and where they need it, enabling the system to do more good for more people. The ATA represents a broad and inclusive network of technology solution providers, delivery systems and payers, as well as partner organizations and alliances, working together to advance adoption of telehealth, promote responsible policy, advocate for government and market normalization, and provide education and resources to help integrate virtual care into emerging value-based delivery models. Telehealth provides a pathway to improve access to health care for Ohio residents including individuals:

- In rural areas: Individuals may not have the regular transportation or work schedules to allow them to travel long distances for quality health care, particularly specialists.
- With challenging work or family schedules: Individuals may not be able to seek care because of challenging work schedules or commitments to care for children or aging relatives.
- Who are homebound or have limited mobility: Individuals may have difficulty seeking care because of disabilities or health problems.
- Who are embarrassed or anxious in seeking care: Individuals may be intimidated or anxious in seeking in-person care. This may be particularly true for sensitive services including family planning, behavioral health, and particular men's health services.



Amendment 3023-1 will permit second opinions from licensed physicians in good standing from another state. As you are aware a physician must be licensed in the state where the patient is at the time of the telehealth encounter unless a licensure waiver is granted for state or national emergency purposes. However, a physician can provide a professional second opinion to a patient as long as they are licensed and in good standing in their resident state, provided that the physician is not involved in the treatment of the patient in the state where they are not licensed.

Moreover, the ATA strongly encourages you and your colleagues to advance HB 679 after amending with AM 3023-1, as it will provide needed clarity and establish baseline standards for telehealth in statute for health care professionals, insurers, and patients. Now more than ever, it is critical for the telehealth industry to have statutory clarity due to the expedited changes that occurred during the COVID-19 pandemic.

The ATA opposes AM 3334 as it would place unnecessary restrictions on telehealth, create barriers to access to care, and would stymie innovation leading to severe unintended consequences, including a disproportionately negative effect on underserved communities who currently benefit from telehealth. In fact, the amendment would remove a provision in current law that permits a health care professional to provide telehealth services to a patient during an initial visit if the appropriate standard of care is met. In 2014, the Federation of State Medical Boards stated in their model policy that "technology can be used to establish a physician-patient relationship." Most recently, the Centers for Medicare and Medicaid Services (CMS) issued guidance during the pandemic that all forms of technology could be used with Medicare patients as long as the standard of care could be met. Policymakers and regulators are issuing these guidelines because they understand the positive impact that technology can have on expanding access to quality care.

Additionally, AM 3334 assumes that the patient must cede judgement to a physician as to whether a telehealth visit is appropriate by two measures: (1) the physician decides that telehealth is in the best interest of the patient in order "to avoid a significant compromise of the patient's health"; or (2) "because of the patient's lack of mobility." This is unnecessarily limiting. The amendment provides for a narrow range of available technology and requires a video component with minimal exceptions essentially requiring a "fail first" video approach. With very few exceptions, states have embraced a technology neutral approach which allows for patient choice and physician discretion regarding the type of technology that can be used. The ATA has a long-standing position that policies related to tech-enabled health delivery should be modality neutral and enable a healthcare professional to practice optimally. Rather than mandating specific telehealth technologies, the General Assembly should develop a regulatory framework that empowers providers to use their clinical judgment to determine the appropriate telehealth modality --whether real-time or non-real time-- to uphold the standard of care and serve the best interest of their patients



Again, we thank you for your interest in and support for telehealth. We strongly urge the Senate Insurance and Financial Institution's Committee to pass House Bill 679 after amending with AM 3023-1. We encourage the committee to reject AM 3334 as it would be a big step backwards for many Ohioans and goes against the state's longstanding commitment to fostering innovation, addressing health disparities, and expanding access to quality health care. Please do not hesitate to let us know how we can be helpful to your efforts to advance common sense telehealth policy in Ohio. If you have any questions or would like to further discuss the telehealth industry's perspective, please contact [kzebley@americantelemed.org](mailto:kzebley@americantelemed.org).

Kind regards,

A handwritten signature in black ink that reads "Kyle Zebley".

Kyle Zebley  
Public Policy Director  
American Telemedicine Association