



February 11, 2021

The Honorable Dennis Lenz
Montana State House of Representatives
1301 E. 6th Ave Helena, MT 59601

The Honorable Lola Sheldon-Galloway
Montana State House of Representatives
1301 E. 6th Ave Helena, MT 59601

The Honorable Jessica Karjala
Montana State House of Representatives
1301 E. 6th Ave Helena, MT 59601

RE: ATA OPPOSITION TO HOUSE BILL 343

On behalf of the American Telemedicine Association (ATA) and the over 400 organizations we represent, I am writing to express opposition to House Bill 343 regarding the practice of teledentistry in Montana. The ATA is the only national organization whose mission revolves solely around the advancement of telehealth, including teledentistry. Our utmost priority is ensuring that Americans have the ability to access affordable, high-quality health care whenever and wherever they need it. The expansion of telehealth infrastructure around the country eases the strain placed on the overburdened health care system, enabling it to provide care to millions more patients every year in an efficient and effective manner. The ATA represents a diverse and expansive coalition of technology solution providers and payers, as well as partner organizations and alliances, working together to promote the implementation of telehealth across the country, endorse responsible telehealth policy, encourage government and market normalization, and deliver education and resources designed to further the integration of virtual care through the use of various innovative technologies.

House Bill 343 represents a step backward for Montana's state policy regarding telehealth and teledentistry. The proposed legislation mandates that synchronous technologies must be used in the establishment of a dentist-practitioner relationship, that dentists practicing teledentistry must reside in Montana, and that dentists who evaluate their patients remotely must provide dental records and imaging to the patient's dentist of record.

The ATA opposes the language proposed in House Bill 343 for several reasons. First, the legislature places an unnecessary and clinically unjustified barrier on Montanans' access to high-quality, affordable dental care by requiring that patients and practitioners utilize synchronous technologies in the establishment of a dentist-patient relationship. As patients search for more convenient and affordable ways to access quality health care, state policies should not pick winners and losers in terms of the technological modalities appropriate for telehealth but should rely on the discretion of licensed



professionals to determine which technologies are sufficient to meet the standard of care for the condition presented by the patient. Across the country, practitioners delivering telehealth services are using asynchronous technologies, such as clinical interviews and secure file sharing, in order to establish relationships with their patients. So long as the patient has consented to the use of teledentistry as an acceptable mode of delivering dental care services and the patient and practitioner have identified themselves and disclosed the appropriate credentials, a practitioner and patient should not be prevented from establishing a professional relationship through the use of the appropriate technologies, including asynchronous modalities.

In addition to allowing patients and providers to interact with each other on their own time, asynchronous technologies are beneficial in that they require less bandwidth to function properly when compared to real-time, audiovisual modalities. According to BroadbandNow, an organization that monitors citizens' access to high-speed internet connections across the United States, Montana ranks last in terms of reliable connectivity statewide. Over 200,000 Montanans (about 20% of the state's population) do not have consistent access to high-speed internet services. By prohibiting the utilization of asynchronous technologies in the establishment of dentist-patient relationships, the legislature is preventing these already underserved and unserved individuals from receiving the same level of care as those who have to more reliable high-speed internet connections.

The ATA is also concerned by language in the proposed bill which would mandate that dentists reside in the state in order to deliver dental care remotely. This requirement places an arbitrary restriction on the practice of teledentistry in Montana that has no basis in clinical evidence. If passed in its current form, House Bill 343 would prohibit a patient in Wibaux from receiving teledentistry services from a dentist residing just 11 miles away in Beach, North Dakota while permitting that same patient to be treated remotely by a dentist living much further away but inside Montana's borders. In the context of the ongoing pandemic, we encourage state policymakers to enable residents to receive dental care from the comfort and safety of their homes by creating a statutory framework that allows them to seek dental advice from their preferred provider regardless of that health care professional's physical location. It is also important to consider that this provision likely violates the Commerce Clause of the U.S. Constitution by restricting interstate commerce in the form of a residency requirement even though the practitioner would otherwise be licensed and authorized to provide treatment in Montana.

Finally, House Bill 343 states that dentists delivering services virtually must provide "timely and complete dental records, including dental imaging, to a patient's dentist of record." Not only would this violate patients' privacy by neglecting to gain their permission before their records are sent, it is inconsistent with the requirements placed on in-person dentists. Simply because a patient with a long-standing relationship with a general dentist seeks out a second opinion from another dentist does not mean that the second dentist is under any obligation to send the patient's records from that visit to the dentist of record, except by patient request. The ATA believes that this standard should be consistent regardless of modality used to deliver dental care.

As the pandemic continues, it is essential to make it easier for Montana residents to access affordable, quality care through teledentistry. We believe that House Bill 343 would make it substantially more difficult for Montanans to receive this care, undermining the progress in Montana's state telehealth policy



ably promoted by House Bill 43 (Knudsen). We encourage you and your colleagues to implement telehealth-related policies that empower providers to utilize an assortment of technologies and allow for flexibility regarding future technological developments. Please let us know if there is anything that we can do to assist you in your efforts to adopt practical telehealth policy in your state. If you have any questions or would like to engage in additional discussion regarding the telehealth industry's perspective, please contact me at kzebley@americantelemed.org.

Kind regards,

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

Kyle Zebley
Public Policy Director
American Telemedicine Association