



April 21, 2021

The Honorable David Bentz
Chairman, Delaware House Health & Human Development Committee
Delaware State Capitol
411 Legislative Avenue
Dover, DE 19901

RE: ATA COMMENTS ON HOUSE BILL 160

On behalf of the American Telemedicine Association and the over 400 organizations we represent, I am writing to comment and offer amendments on House Bill 160.

The ATA is the only organization dedicated solely to the advancement of telehealth in the United States. Our primary objective is to provide Americans with affordable, high-quality health care whenever and wherever they need it. The use of telehealth services eases the burden placed on the nation's health care infrastructure, allowing the system to deliver services to millions more patients efficiently and effectively. 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.

The ATA supports the broad inclusion of professions that are authorized to use telehealth and telemedicine technologies to deliver care to Delaware patients. Similarly, the ATA supports placing all the telehealth and telemedicine practice provisions – regardless of the provider type – under the same Code Chapter as this will increase and promote consistency across professions and ease administrative burdens for Delaware-licensed providers.

Furthermore, the ATA is a proponent of the Interstate Medical Licensure Compact. The IMLC offers an expedited and streamlined pathway to licensure for physicians who wish to practice both physically and remotely in multiple states. Utilizing telehealth improves continuity of care for both urban and rural patients in underserved communities who may not have access to care otherwise. The IMLC is particularly important to enabling and delivering efficient, 21st century medical care across state lines using digital health technologies.

While we believe HB 160 serves as an important addition to Delaware's state telehealth policy, the ATA respectfully would like to offer some amendments which we believe will expand Delaware residents'



access to telehealth services. First, while the definitions of telemedicine and telehealth clearly include the use of asynchronous (or “store and forward”) technologies, the practice standards proposed in Section 6004 (3) require a provider to use “audio or visual communication” to make a diagnosis. We suggest amending 6004(3) to make clear that providers can use asynchronous technologies to establish a relationship and make a diagnosis. This amendment would better capture how telehealth providers in Delaware and across the country are increasingly relying on robust asynchronous telehealth technologies to establish patient relationships, perform patient evaluations, and appropriately prescribe medication in many fields. As patients and consumers seek out more convenient and affordable means by which to access their health care services, state policymakers should not mandate which technologies are more appropriate than others in the delivery of telehealth services. Instead, they should defer this decision to licensed medical professionals who can determine which technologies are appropriate to treat the condition presented by the patient. It is appropriate for the legislature to put in place patient safety guardrails; however, those should be firmly tied to the standard of care. The ATA believes that amending HB160 with technology-neutral practice standards would enable Delaware patients to access their much-needed health care services as easily and efficiently as possible.

Second, while the ATA generally supports the definition of telemedicine as written, we believe it could be improved by removing the restricting language regarding audio-only communications. The COVID-19 pandemic has shown just how valuable an audio-only interaction with a provider can be – particularly for patients receiving mental health or primary care services. Furthermore, the exception for audio-only included in the definition (that audio-only acceptable if the patient cannot access appropriate broadband or other technology necessary for an audio-visual connection) would be nearly impossible to properly enforce. Would it be incumbent upon the provider to determine if the patient has acceptable broadband access, or are we relying on patients to self-regulate? And if one does not have access to audio-visual but can access just audio, which this legislation allows, would it not make more sense then to simply include audio-only as an acceptable means of delivering services as long as it meets the standard of care? The ATA suggests the removal of the restriction on audio-only for consistency and clarity purposes, but also because audio-only is a viable and efficacious method of delivering many services and should not arbitrarily be restricted.

Thank you for your interest in telehealth. We urge you and your colleagues to amend and support House Bill 160. Please let us know how we can be helpful in your efforts to adopt positive telehealth policy in Delaware. If you have any questions or would like to discuss further the telehealth industry’s perspective, please contact me at kzebley@americantelemed.org.

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley", written in a cursive style.

Kyle Zebley
Public Policy Director
American Telemedicine Association