



May 17, 2021

The Honorable Anthony J. Portantino
Chairman, California Senate Appropriations Committee
California State Senate
1315 10th St., Room 5050
Sacramento, CA 95814

The Honorable Patricia C. Bates
Vice Chairwoman, California Senate Appropriations Committee
California State Senate
1315 10th St., Room 3063
Sacramento, CA 95814

RE: ATA OPPOSITION TO SECTION 4 OF SENATE BILL 642

Dear Chairman Portantino and Vice-Chairwoman Bates,

On behalf of the American Telemedicine Association (ATA) and the over 400 organizations we represent, I am writing to express concerns about Section 4 of Senate Bill 642.

The ATA is the only national organization completely focused on advancing telehealth. We are committed to ensuring that everyone has access to safe, affordable, and high-quality care whenever and wherever they need it. The practice of telehealth empowers the health care system to provide services to millions more patients every year in an efficient and efficacious manner. The ATA represents a broad and inclusive coalition of technology solution providers and payers, as well as partner organizations and alliances, working together to advance industry adoption of telehealth, promote responsible policy, advocate for government and market normalization, and provide the education and resources necessary to help integrate virtual care through the use of innovative technologies.

Throughout California, many medical practices – those that deliver care through telehealth as well as in-person – have operated using a model where non-physicians (or “lay entities”) provide administrative support and/or investment capital, while the provider controls all clinical decisions, protocols, and patient care. This structure allows providers to maximize time on patients and contract out nonmedical duties, including billing, credentialing, and contracting, to



other personnel. Importantly, this structure has also helped medical providers in California access needed financing and investment to expand their practice and innovate, including emerging telehealth companies who aim to reach underserved and often stigmatized populations. The ATA has significant concern that Section 4 of Senate Bill 642 could jeopardize unnecessarily this long-established model and disrupt access to care for millions of Californians. Specifically, Section 4 would impose a sweeping mandate that “shareholders, directors, and officers of a medical corporation manage and have ultimate control over the assets and business operations of the medical corporation and not be replaced, removed, or otherwise controlled by any lay entity or individual.” If this broad and ambiguous language were to be codified, many existing telehealth providers (as well other health care entities) would no longer be able to operate in the state or would be forced to limit their services, resulting in a lack of access to affordable, high-quality health care services for thousands of Californians, especially low-income and underserved citizens.

Indeed, the language proposed in Section 4 would prohibit or severely limit the ability for medical practices to contract with management and administrative services providers. These changes would burden health care providers with a tremendous amount of nonclinical duties and thereby limit the amount of time they spend doing what they are trained to do – diagnosing and treating patients.

Further, the new language in Section 4 will significantly chill investment into the health care innovation sector where California traditionally has been a leader. Investment has allowed and encouraged medical groups across California’s health care ecosystem to innovate, build, and deploy new models for the delivery of care. This impact cannot be understated, particularly for burgeoning telehealth companies that are treating patients in fields where innovation is desperately needed, like reproductive health, chronic condition management, oncology, and behavioral health. Moreover, specialty practices requiring expensive equipment, such as radiation oncology, rely on outside investment to innovate and operate effectively. Scaling down investment in these delivery models would reduce patients’ easy and efficient access to the quality health care services they deserve at a time when it is needed most.

Finally, the ATA is uncertain as to which problem the sweeping provisions in Section 4 are intended to solve. California already has some of the nation’s strongest safeguards and protections - including Business Professions Code 2052, Code 2400, and guidance from the California Medical Board - to ensure that providers have control over their medical practices and the clinical decisions they make. Our organization is unaware of any indication that owners of medical corporations are unsatisfied with the current structure, who exactly is advocating for the adoption of the language posited in Section 4, or why existing regulations are insufficient to enforce against non-physician entities who improperly cross the line into patient care.



The ATA thanks you for your time and interest in telehealth. We believe that should the language in Section 4 be adopted, its lack of specificity would leave medical practices and their lay affiliates confused regarding the legality of their business models and investors apprehensive to finance innovative health care delivery models in your state. Now is the not the time to enact barriers to care. Thus, we strongly encourage you to remove Section 4 from Senate Bill 642 in the interest of ensuring equity, inclusion, and innovation in Californians' access to high-quality, affordable health care. 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 over a light gray circular watermark.

Kyle Zebley
Public Policy Director
American Telemedicine Association