



Health. Virtually. Everywhere.

Repeal the In-Person Requirement

Telehealth allows patients to receive safe, affordable, and quality care where and when they need it and has been a lifeline for millions of Americans during the COVID-19 pandemic. Before COVID-19, 65% of patients felt hesitant about telehealth, but now 87% want to continue using telehealth services post-pandemic.¹ Behavioral health services lend themselves particularly well to remote care, both because physical presence is not always clinically necessary for care and because of the great need for more access to mental health services. At the end of 2020, Congress passed a provision in the Consolidated Appropriations Act, 2021, Pub.L. 116–260, intended to increase access to telemental health services by permanently waiving historical Medicare restrictions like the geographic requirement for these services. However, the provision included an unexpected and unnecessary in-person requirement. The provision requires physicians to see their patients in-person at least six months prior to their telemental visit before a Medicare-reimbursed telehealth visit.

In-Person Requirements for Telehealth are Clinically Inappropriate

There is no clinical evidence for an arbitrary in-person requirement before a patient can access telehealth services. In fact, evidence has demonstrated that telemental services like telepsychology are just as effective as in-person visits.² Further, there is clear consensus that a provider can establish a relationship with a patient via a telehealth visit. The association of state regulators who oversee standards of medical care, the Federation of State Medical Boards, states that “...the relationship is clearly established when the physician agrees to undertake diagnosis and treatment of the patient, and the patient agrees to be treated, whether or not there has been an encounter in person between the physician (or other appropriately supervised health care practitioner) and patient.”

In-Person Requirements Exacerbate Provider Shortages

The United States has a deficit of 6,000 mental health providers, and this shortage is expected to grow to a quarter of a million by 2030.³ As we saw in 2020 and 2021, telehealth increases the capacity of the providers we do have to see more patients by removing geographic and other physical barriers. We must work together to increase the number of mental health providers to ensure all Americans get the care they need. However, explicitly denying a patient’s access to mental health services based on his or her inability to find a scarce mental health provider is simply unreasonable.

In-Person Requirements Increase Barriers and Worsen Health Inequities

The ATA strongly opposes statutory in-person requirements as they create arbitrary and clinically unsupported barriers to accessing affordable, quality health care. Requirements such as these could negatively impact those in underserved communities who may not be able to have an in-person exam due to provider shortages, work, lack of childcare, and/or other resources. Recent CDC data demonstrate that 23% of American adults do not have an existing relationship with a health care provider, and that statistic is alarmingly high in minority populations.⁴ We cannot ignore the importance of providing all Americans, regardless of whether they have an established relationship with a medical provider, the opportunity to access life-saving health care.

¹ [How Americans Feel About Telehealth: One Year Later, SYKES’ 2021 Telehealth Survey Report](#), April 9, 2021

² [How well is telepsychology working?](#), American Psychological Association, July 1, 2020

³ [Triple-Tree: A New Era of Virtual Health Q2](#), 2021

⁴ [Adults Who Report Not Having a Personal Doctor/Health Care Provider by Race/Ethnicity](#), KFF, Accessed June 8, 2021



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Federal In-Person Requirements Unnecessarily Preempt State Laws

The in-person requirement for telehealth services is at odds with the direction telehealth policy has moved over the last decade. It disrupts Medicare's historical approach, which is to remain deferential to state laws on professional practice requirements and clinical standards of care. Today, no state practice of medicine law in the U.S. requires a prior in-person visit. The ATA urges Congress to ensure telemental health services continue post-pandemic but to recognize federal laws restricting these services are inappropriate. Instead, Congress should defer to states and individual payers to determine telehealth prerequisites. For the Medicare program, instead of codifying service-specific restrictions in statute, Congress should work with HHS to ensure the Secretary has the authority at the regulatory level to implement any appropriate health care requirements. By explicitly limiting care in statute, legislators will unnecessarily stifle innovation and tie the hands of regulators, providers, and patients.

Your Resource – the ATA

As you consider policies regarding telehealth technology, please consider the American Telemedicine Association (ATA) as a resource. 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. For more information, please visit www.americantelemed.org.