



January 26, 2022

The Honorable Jeb Bradley
Chairman, New Hampshire Senate Health and Human Services Committee
New Hampshire State Senate
107 N. Main St., Room 302
Concord, NH 03301

The Honorable James Gray
Vice Chairman, New Hampshire Senate Health and Human Services Committee
New Hampshire State Senate
107 N. Main St., Room 302
Concord, NH 03301

RE: ATA ACTION COMMENTS ON SENATE BILL 430

Dear Chairman Bradley and Vice Chairman Gray,

On behalf of ATA Action, I am writing you to comment on Senate Bill 430 relating to out-of-state physicians practicing telemedicine.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policy to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth coverage and fair payment policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system – by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs – if only allowed to flourish.

Section 76 of Senate Bill 430 serves as a rational expansion of New Hampshire's state telemedicine policy. Amongst other things, the proposed legislation enables physicians licensed and in good standing in other states to provide consultation services or follow-up care via telemedicine to patients who previously received services from the physician in the state where the physician is licensed without the physician needing to obtain a New Hampshire license.

ATA Action applauds the legislature for seeking to expand access to telemedicine by permitting out-of-state physicians to provide health care services to established patients. This provision will allow patients to continue interacting with the providers who know their conditions best even if they are not located in the same physical location.

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However, our organization suggests expanding these waivers to all out-of-state providers, not just those who have preexisting relationships with patients now located in New Hampshire. ATA Action believes that patients should be able to receive virtual care from their preferred provider – regardless of that provider’s physical location – so long as the providers are licensed and in good standing in their home state, are utilizing the appropriate technology to uphold the established standard of care, and can still be held accountable by the appropriate New Hampshire boards and state agencies should any issues arise from treatment of a New Hampshire patient. By granting practice privileges to out-of-state health care providers that maintain good standing in their own states, New Hampshire patients will have the opportunity to connect with qualified practitioners whenever and wherever their need for care arises. Policies which enable out-of-state providers to practice at the top of their license and deliver high-quality health care via telemedicine remove arbitrary geographical barriers that limit patients’ access to the health care services they want, need, and deserve.

Making these amendments to allow out-of-state providers to practice in New Hampshire would be in line with national public policy since the onset of the COVID-19 pandemic. Governors and legislatures across the country quickly responded to COVID-19 by providing licensure flexibilities that allowed out-of-state providers who were licensed and in good standing in their home states to practice without having to navigate the often-burdensome licensure requirements of other states. This public policy experiment was met with great success, as patients with non-emergent conditions were given the opportunity to receive timely care via telemedicine technologies not only for COVID-related illnesses but also for a myriad of other chronic and acute issues. In response to these flexibilities, our member organizations leveraged their technology platforms and provider networks to increase the supply of health care professionals dramatically to meet surges in demand, ultimately serving millions of Americans who would otherwise never have received care. Notably, there was not an increase in patient complaints nor harm to patients from the implementation of this policy nationwide.

Given the overwhelmingly positive outcomes of this public policy trial, ATA Action believes that the time is now to make these out-of-state licensure flexibilities a permanent fixture through legislation. Senate Bill 430 presents an opportunity to do so. Other states have already found successful public policy formulas to implement these changes. One such model involves a simple registration process that requires the out-of-state health care provider to show that they (1) are licensed and in good standing in his or her home state, (2) maintain liability coverage similar to if they were providing services in person, (3) do not open an office in the state, and (4) only use approved pharmacies to dispense prescription drugs. Again, any out-of-state provider would still be subject to the laws and regulations of New Hampshire, would operate under the authority and enforcement of the State regulatory boards, and could have their registration revoked and penalties levied in the same manner as a provider delivering services in person.

Simply put, this is an opportunity for New Hampshire to lead the nation and provide solutions for complex problems that are affecting New Hampshire residents every day.

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Thank you for your interest in telemedicine. We encourage you and your colleagues to amend the language of Senate Bill 430 as outlined above in the interest of expanding New Hampshire patients' access to affordable, high-quality care. Please let us know if there is anything that we can do to assist you in your efforts to adopt practical telemedicine policy in New Hampshire. If you have any questions or would like to engage in additional discussion regarding the telemedicine industry's perspective, please contact me at kzebley@ataaction.org.

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley", is written over a faint, light-colored circular watermark.

Kyle Zebley
Executive Director
ATA Action