



March 10, 2022

The Honorable J. Walter Michel
Chair, Mississippi Senate Insurance Committee
Mississippi State Capitol
400 High St., Room 212-C
Jackson, MS 39215

The Honorable Nicole Boyd
Vice-Chair, Mississippi Senate Insurance Committee
Mississippi State Capitol
400 High St., Room 213
Jackson, MS 39215

The Honorable Henry Zuber III
Chairman, Mississippi House Insurance Committee
Mississippi State Capitol
400 High St., Room 402-C
Jackson, MS 39215

The Honorable Kevin Ford
Vice-Chairman, Mississippi House Insurance Committee
Mississippi State Capitol
400 High St., P.O. Box 1018
Jackson, MS 39215

RE: ATA SUPPORT FOR SENATE BILL 2738

Dear members of the Conference Committee:

On behalf of ATA Action, **I am writing in support of Senate Bill 2738 relating to 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 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.

ATA ACTION

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The proposed legislation amends the definition of telemedicine in the Insurance Title, removing restrictions on the use of asynchronous modalities to diagnose and treat patients online and enabling providers to deliver and be reimbursed for providing health care services through HIPAA-compliant telecommunications systems, including asynchronous technologies, remote patient monitoring services, and store-and-forward telemedicine services. The bill ultimately empowers Mississippi-licensed providers to use their professional expertise, education, and discretion to determine which modality of care is appropriate for each unique patient presentation.

This definitional change is critical for Mississippians that live in rural areas who do not have access to high-speed broadband which, in turn, makes access to telehealth under the current statutory construction incredibly difficult. Similarly, there are Mississippians who simply do not have convenient access to technology that enables interactive audio-visual communications. The arbitrary restrictions currently in place have prevented innumerable Mississippi patients from receiving the care they want, need, and deserve. These restrictions stem from the currently codified definition of telemedicine which requires encounters to be in a “real-time” format. For those without access to broadband or audio-visual technology, overcoming that barrier can be incredibly challenging. **This legislation would significantly increase access to care by amending that definition to allow providers to deliver telemedicine services via other modalities of care so long as they continue to meet the standard of care.** ATA Action firmly supports this effort.

With that said, our organization also believes that there are additional modifications to the current statutory structure that would further increase access to care. Primarily, precluding real-time audio-only technologies from the list of permissible telemedicine technologies (except as determined by the Commissioner of Insurance) acts as a clinically unsubstantiated barrier to patient care, one which would affect most pertinently individuals in unserved and underserved areas who lack access to the broadband capabilities necessary to operate real-time audiovisual technologies – as mentioned above. We believe that the definition should be completely technology neutral so that each provider has the full suite of modalities available to them to deliver care to their patients.

Secondly, while the new definition of “telemedicine” includes “store-and-forward telemedicine services,” the definition of store-and-forward technology found in MS Code § 83-9-353 contemplates a care model that requires an intervening health care provider and applies only to health care specialists. While this may have been the standard model when this language was codified, there have been significant changes in the industry, and we respectfully suggest that the Mississippi Legislature update its language to reflect those changes.

Specifically, ATA Action believes that store-and-forward telemedicine technologies can and should be used by a patient and their treating provider and not be limited to use by medical specialists only. We also believe that limiting store-and-forward technologies to “a camera or similar devices” severely restricts other technologies that are equally useful to providers – such

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as the transfer of medical records, X-rays, MRIs, lab reports, and any other patient-specific information sent asynchronously to the provider.

One such example of an inclusive definition that reflects the current practice model is included in the ATA policy principles. It reads as follows:

"Store and forward" means an exchange of information regarding a patient that does not occur in real time, including the secure collection and transmission of a patient's medical information, clinical data, clinical images, laboratory results, or a self-reported medical history.

Finally, while this bill is drawn to the Insurance Title, there may be reason to introduce similar language in the Professions and Vocations Title in the future to ensure permissibility and consistency in the practice of telemedicine in Mississippi. This would also give the State Board of Medical Licensure the guidance they need to promulgate rules that are consistent with legislative intent to ensure access to health care for all Mississippians and prevent any confusion or frustration to the contrary. Generally speaking, it would serve the people of the state to provide guidance for telehealth providers who do not accept insurance.

These ATA Action-supported changes would make a drastic difference for countless Mississippians who are presently precluded from receiving care due to clinically unsupported and arbitrary barriers to care which limit the use of non-real-time modalities. ATA Action applauds the Legislature for their introduction of this new definition of telemedicine and supports these pieces of legislation. It is our hope that you also take into consideration the other suggestions laid out in this letter so that all Mississippians can receive the care they need in a manner that works best for them – so long as the standard of care can be met.

Please let us know if there is anything else that we can do to help you promote practical telemedicine policy in Mississippi. If you have any questions or would like to discuss the telemedicine industry's perspective further, please contact me at kzebley@ataaction.org.

Kind regards,

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

Kyle Zebley
Executive Director
ATA Action