



March 1, 2022

ATA ACTION COMMENTS

HEALTH AND MENTAL HYGIENE ARTICLE VII LEGISLATION (A9007/S8007)

Part B: Interstate Medical Licensure Compact and Part V: Telehealth Reimbursement Parity

On behalf of ATA Action, I am writing you to express our opposition to certain aspects of the proposed New York budget relating to telehealth and to offer amendments.

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.

The proposed New York budget contains two sections related to telehealth of concern to ATA Action. First, if passed as currently written, the proposed budget would enter New York into the Interstate Medical Licensure Compact (IMLC). Second, the proposal would mandate that health insurers reimburse telehealth providers “on the same basis, at the same rate, and to the same extent” as providers delivering care in person.

ATA Action would like to comment on the provision in the proposal related to the Interstate Medical Licensure Compact. While we believe that enacting the IMLC would be a step in the right direction for New York's state telehealth policy, we suggest expanding licensure flexibilities to all qualified out-of-state providers, not just those who are licensed in IMLC member states. ATA Action believes that New York patients should be able to receive virtual care from their preferred provider – regardless of that provider's physical location or the recency with which the patient has received care from that provider in person – 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 York boards and state agencies should any issues arise from treatment of the New York patient. By granting practice privileges to out-of-state health care providers that maintain good standing in their own states, New York patients will have the opportunity to connect with qualified practitioners whenever and wherever their need for care arises. Policies which enable out-of-state

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providers to practice at the top of their licenses and deliver high-quality health care via telehealth remove arbitrary geographical barriers and temporal restrictions that limit patients' access to the health care services they want, need, and deserve. By example, Florida has enacted such a permissive licensure regime. Today, New Yorkers in Florida can continue to receive health care services from their New York providers because Florida allows those providers duly licensed in New York simply to register in Florida. Moreover, including such flexibilities in the budget proposal would enable patients to interact with out-of-state providers *immediately* instead of waiting to do so until the State Board for Medicine completes the intensive administrative process of approving the Compact.

Making these amendments to allow out-of-state providers to practice in New York would be in line with public policy in many other states since the onset of the COVID-19 pandemic. Governors and legislatures across the country responded quickly 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 telehealth 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 reported harm to patients from the implementation of this policy nationwide.

Given the overwhelmingly positive outcomes of this public policy initiative during the pandemic, ATA Action believes that the time is now to make these out-of-state licensure flexibilities a permanent fixture through state legislation. The proposed budget 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 he or she (1) is licensed and in good standing in his or her home state, (2) maintains liability coverage similar to if he or she were providing services in person, (3) does not open an office in the state, and (4) only uses approved pharmacies to dispense prescription drugs. Again, any out-of-state provider would still be subject to the laws and regulations of New York, would operate under the authority and enforcement of the state's regulatory boards, and could have their registration revoked and penalties levied in the same manner as a provider delivering services in person.

ATA Action also opposes the provision in the proposed budget which requires telehealth providers to be reimbursed in the same manner as they would be for covered services that are delivered via in-person contact. As far as the rate of reimbursement is concerned, ATA Action believes that state policymakers should set rational guidelines that are both fair to the provider of such services and reflect the cost savings the effective use of telehealth technologies offer to the health care system.

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Thank you for your consideration. We encourage you to amend the proposed budget as suggested above in the interest of expanding New York 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 telehealth policy in New York. If you have any questions or would like to engage in additional discussion regarding the telehealth 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 or background.

Kyle Zebley
Executive Director
ATA Action