



April 26, 2022

Dennis E. Smith  
Executive Director  
Maine Board of Licensure in Medicine  
137 State House Station, Augusta, ME 04333

Kimberly S. Esquibel  
Executive Director  
Maine State Board of Nursing  
158 State House Station, Augusta, ME 04333

Susan E. Strout  
Executive Secretary  
Maine Board of Osteopathic Licensure  
142 State House Station, Augusta, ME 04333

**RE: ATA ACTION COMMENTS ON CHAPTER 11 JOINT RULE REGARDING  
TELEHEALTH STANDARDS OF PRACTICE**

Dear Mr. Smith, Ms. Esquibel, and Ms. Strout:

On behalf of ATA Action, I am writing to offer our comments on proposed rules relating to telehealth in Maine.

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.

Our organization supports the Boards' recent amendments to the proposed rules, specifically regarding the definition of telehealth. In addition to allowing the use of audio-visual technologies, interactive audio modalities, and asynchronous store-and-forward technologies, the definition of telehealth offered in the latest version of the proposed rules explicitly enables physicians, osteopaths, and nurses to use audio-only technologies during the delivery of telehealth services when necessary and appropriate under the circumstances and if in compliance with the applicable standard of care. ATA Action maintains that licensing boards should defer the decision as to which technologies are sufficient to meet the standard of care for the condition presented by the patient to the licensed practitioner, who can use his or her professional judgment to determine which telehealth modalities are most appropriate in any given telehealth

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interaction. Such a provision enables telehealth providers to utilize a wider range of innovative telehealth modalities.

The use of audio-only technologies, which can be used even with mediocre bandwidth connections, makes it much easier for patients who lack access to reliable internet connections to communicate effectively with their providers. Currently, almost 35,000 Maine residents do not have consistent access to high-speed internet connections. By enabling Mainers to receive telehealth services through the use of audio-only technologies, the Boards ensure that unserved and underserved citizens, particularly those in rural areas, receive the same level of access to high-quality health care as those who are able to take advantage of more reliable internet connections.

While we appreciate the Boards' efforts to expand access to telehealth, we urge the Boards to consider adopting a truly technology-neutral definition of telehealth instead of excluding certain modalities from the list of approved modalities. Such a definition would allow providers to use all asynchronous modalities – including e-mails and text messages – while rendering virtual care so long as the provider determines that he or she is capable of meeting the standard of care for the patient's presented condition. Regulatory boards should not implement policies which favor certain modalities over others; rather, they should create policies which hold all telehealth interactions to the same standard of care while leaving room for future technological innovations in the field. We believe the definition of telehealth approved by the Legislature in Public Law Chapter 291 serves as an example of such a definition:

*"Telehealth," as it pertains to the delivery of health care services, means the use of information technology and includes synchronous encounters, asynchronous encounters, store and forward transfers and telemonitoring.*

We thank you for your support for telehealth in Maine. We urge you and your colleagues to approve permissive telehealth regulations in the interest of expanding access to affordable, high-quality health care across the state – particularly in rural and underserved communities. Please do not hesitate to let us know how we can be helpful in your efforts to advance common-sense telehealth policy in Maine. If you have any questions or would like to discuss further the telehealth industry's perspective, please contact me at [kzebley@ataaction.org](mailto:kzebley@ataaction.org).

Kind regards,

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

Kyle Zebley  
Executive Director  
ATA Action

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