



October 3, 2022

Melanie Fontes Rainer  
Director  
U.S. Department of Health and Human Services  
Office for Civil Rights  
Attention: 1557 NPRM (RIN 0945-AA17)  
Hubert H. Humphrey Building, Room 509F  
200 Independence Avenue SW  
Washington, DC 20201

**RE: 1557 NPRM on Nondiscrimination in Health Programs and Activities (RIN 0945-AA17)**

*Submitted electronically on regulations.gov*

Dear Director Fontes Rainer:

On behalf of ATA Action, the American Telemedicine Association's (ATA) affiliated trade association focused on advocacy, we appreciate the opportunity to comment on the Department of Health and Human Services Office for Civil Rights (OCR) notice of proposed rulemaking to further implement section 1557 of the Affordable Care Act regarding nondiscrimination in health care.

In §92.211 of this proposed rule, OCR recognizes the value and benefit of telehealth, which has been utilized more broadly across the country since the COVID-19 pandemic, and the increased access it has afforded for people across the country, including those who have historically faced discriminatory barriers in the health care system. OCR proposes to explicitly apply the section 1557 rules prohibiting discrimination on the basis of race, color, national origin, sex, age, or disability to telehealth services as it applies to other types of health care services. The ATA and ATA Action agree with this premise and look forward to working with OCR and other stakeholders to further the goals of reducing health disparities and making sure that health care services are accessible to all.

**Telehealth is health.** In this rule, OCR clarifies the affirmative duty that covered entities have to not discriminate in their delivery of such services through telehealth. OCR proposes to apply nondiscrimination rules to telehealth services the same way they are applied in other health care settings. The ATA agrees with this approach: telehealth is health and telehealth services should be held to the same standards as other health care services. The ATA also agrees with the broad definition of telehealth as not just a remote video visit between patient and clinician, but as the use of communications technology to deliver clinical health care services.



**Telehealth, when utilized in accordance with health equity principles, can eliminate disparities and inequities in health.** The U.S. has entered a period where the subject of disparities is receiving a historic level of attention by government and market stakeholders. This focus and the collective energy that accompanies it is welcome after decades of widening socioeconomic gaps across American communities and well-documented disparities in health among rural/urban communities, communities of color, and tribal nations. It is against that backdrop that the ATA organized the CEO's Advisory Group on Using Telehealth to Eliminate Disparities and Inequities to develop and advance the [ATA's Framework for Eliminating Health Disparities Using Telehealth](#). This framework recognizes the need to ensure connectivity, health literacy, and digital literacy in order to increase access and reduce disparities. Further, the framework notes the need health professionals to have technical skills and cultural awareness to support optimal patient care with an underlying philosophy of inclusiveness. It is with these principles in mind that telehealth providers should seek to provide care in a nondiscriminatory way and reduce health disparities. As the model advances, perhaps a facet that should be considered more closely is the way in which the technological and structural infrastructure should support nondiscrimination.

While telehealth is part of an imperfect health care system and barriers persist to ensuring that everyone has access to the health care they need whether in person or virtually, we believe that integrating virtual care offerings fully into the health care ecosystem and making virtual services available to those who need them will bridge the gap that the traditional health care system has not yet been able to when it comes to addressing health disparities. Thank you for the opportunity to respond to this important proposed rule. If you have any questions, please contact Kyle Zebley at [kzebley@ataaction.org](mailto:kzebley@ataaction.org).

Kind regards,

A handwritten signature in black ink, appearing to read 'Kyle Zebley'.

Kyle Zebley  
Executive Director  
ATA Action