



January 10, 2023

Health and Long-Term Care Committee
Washington State Senate
416 Sid Snyder Ave. SW
Olympia, WA 98504

RE: SUPPORT OF SB 5036

Dear Chair Cleveland and members of the Washington Senate Health and Long-Term Care Committee,

On behalf of the ATA Action, I am writing you to express support for SB 5036.

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.

Last year the Legislature passed HB 1821 which amended the definition of “established relationship” in the state’s Insurance Code that pertains to providers delivering telemedicine services via audio-only modalities. This bill’s passage was a step forward for telehealth access in Washington and ATA Action remains supportive of this effort. In permitting providers to establish patient-provider relationships simply by maintaining the patient’s current health record, the legislature removed in-person requirements which served as artificial and clinically unsubstantiated barriers to patients’ access to high-quality health care.

HB 1821 included a sunset on allowing a “real-time interactive appointment” to establish a provider-patient relationship on all health services, excluding behavioral health. After the January 1, 2024 sunset date, patients will be required to have seen a provider in-person within the past two years before using audio-only telemedicine, attend an in-person appointment with another practitioner in the provider’s medical group, or be referred by a provider who saw the patient in-person within the past two years.

ATA Action believes that the sunset date should be extended to allow the legislature to consider the pending report of the Office of the Insurance Commissioner, which is studying audio-only telemedicine at the direction of HB 1196 from 2021. Through collaboration with the Washington State Health Care Authority and the Washington State Telehealth Collaborative, the Office of the Insurance Commissioner will collect data and utilization trends related to audio-only telehealth

ATA ACTION

901 N. Glebe Road, Ste 850 | Arlington, VA 22203
Info@ataaction.org



and issue a report by November 15, 2023. The current sunset date of January 1, 2024 would not give the Legislature, specifically this committee, appropriate time to review the findings of the study and potentially act, especially since the report and data will not be available during the 2023 Session.

Therefore, ATA Action supports SB 5036 which would extend the sunset date to July 1, 2024, providing the Legislature the opportunity to take the findings of this important study into account before taking further action on the definition of “established relationship” in regards to audio-only telehealth modalities.

In addition, ATA Action would like to emphasize its commitment to supporting technology-neutral language in telemedicine statute. Our members believe that providers should be able to utilize the full range of telemedicine modalities to establish a patient-provider relationship so long as the provider is capable of obtaining the patient’s consent for the use of telemedicine as an acceptable mode of delivering medical services, revealing their identity and credentials, and verifying the patient’s identity while utilizing them. We urge the legislature to consider implementing a definition of “established relationship” for audio-only telemedicine purposes that is tied explicitly to the standard of care. This is also the position adopted by the Federation of State Medical Boards’ in their recently updated model guidance on “The Appropriate Use of Telemedicine Technologies in the Practice of Medicine.” The guidance states that “Physician-patient relationship may be established via either synchronous or asynchronous telemedicine technologies without any requirement of a prior in-person meeting, so long as the standard of care is met.”

Thank you for your support of telehealth. We encourage you and your colleagues to support SB 5036 to ensure easy and efficient access to high-quality health care services in Washington. Please do not hesitate to let us know how we can be helpful to your efforts to advance common-sense telemedicine policy. 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", written over a light grey circular watermark.

Kyle Zebley
Executive Director
ATA Action

ATA ACTION

901 N. Glebe Road, Ste 850 | Arlington, VA 22203
Info@ataaction.org