



March 22, 2023

The Honorable Justin Brown
Senator, District 16
Missouri Senate
201 W. Capitol Ave., Rm. 420
Jefferson City, Missouri 65101

RE: ATA ACTION COMMENTS WITH SUGGESTED AMENDMENT ON SB 418

Dear Senator Brown,

On behalf of ATA Action, I am writing to comment on SB 418 relating to telehealth. The legislation appears intended to be a step forward for the state's telemedicine policy, however, we suggest making a minor amendment to clarify language on the establishment of the physician-patient relationship, in accordance with other Missouri telemedicine law.

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.

Senate Bill 418 contains an important step forward for Missouri's telehealth policy. The proposed legislation makes clear that questionnaires can be an appropriate use of asynchronous store-and-forward technologies in the delivery of telehealth services, including for the issuing of prescriptions. Across the country, providers and health systems are using adaptive and responsive online questionnaires that incorporate relevant evidenced-based clinical protocols to deliver care to both new and established patients. The proposed legislation specifically requires questionnaires to be sufficient to establish an informed diagnosis as though a medical interview or physical examination has been performed in person in order to qualify as a permitted use. ATA Action believes this is an appropriate patient safety guardrail tied to the standard of care.

ATA Action applauds your efforts to expand Missouri residents' access to affordable, high-quality health care. Across the United States, patients and consumers are seeking more cost-effective and efficient ways to access the health care they need. State policies should rely on the discretion of licensed medical professionals as to which modalities are sufficient to meet the standard of care for the condition presented by the patient. Moreover, asynchronous modalities can often better meet the needs of rural and lower-income patients dealing with time, geographic and financial constraints. By permitting the use of these questionnaires as part of asynchronous store-and-forward technology in the delivery of telehealth services, the legislature also enhances the ability of Missourians who lack access to reliable, high-speed internet connections to receive the same level of care as those who are able to utilize high-speed internet capabilities.

ATA ACTION

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However, as currently drafted, the amendments that SB 418 makes to section 334.108.3 could create confusion for both providers and patients regarding their ability to provide care and establish relationships via all telemedicine modalities during a first-time physician-patient encounter. While the intent of the section appears to be removing limitations on evaluations conducted via the telephone, the effect of the changes would be to repeal the current allowance for providers to form relationship via telemedicine. We encourage you to revise the below section to better align SB 418 with existing Missouri law and provide necessary clarity to patients and healthcare providers.

No health care provider, as defined in section 376.1350, shall prescribe any drug, controlled substance, or other treatment to a patient based solely on an evaluation ~~[over the telephone]~~ via telemedicine, as defined in section 191.1145 unless a previously established and ongoing relationship exists between such provider and the patient being treated, or by establishing a physician-patient relationship subject to section 191.1146.; ~~except that, a physician or such physician's on-call designee, or an advanced practice registered nurse, a physician assistant, or an assistant physician in a collaborative practice arrangement with such physician, may prescribe any drug, controlled substance, or other treatment that is within his or her scope of practice to a patient based solely on a [telephone] telemedicine evaluation if a previously established and ongoing physician-patient relationship exists between such physician and the patient being treated.~~

Thank you for the opportunity to comment. We urge you to consider this change to SB 418 before advancing the legislation to expand Missouri patients' access to high-quality, affordable health care and drive better care coordination throughout the state. If you have any questions or would like to discuss the telehealth 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 in a cursive style.

Kyle Zebley
Executive Director
ATA Action