



April 18, 2023

The Honorable Paul W. Lee
Chair, Health Committee
Alabama House of Representatives
11 S Union Street Suite 410 F
Montgomery, AL 36130

The Honorable Craig Lipscomb
Vice Chairperson, Health Committee
Alabama House of Representatives
11 S Union Street Suite 528 D
Montgomery, AL 36130

RE: ATA ACTION OPPOSITION TO HOUSE BILL 306

Dear Chairperson Lee, Vice Chairperson Lipscomb, and members of the House Health Committee,

On behalf of ATA Action, I am writing you to comment in opposition to House Bill 306 related to teledentistry.

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 – including teledentistry – 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.

ATA Action has objections to several of the provisions present in House Bill 306 and believes this legislation would serve as a major step back for the state's teledentistry policy and for patient access to healthcare in Alabama. HB 306 includes restrictive and inconsistent definitions, higher standards for teledentistry providers than in-person care providers and requirements that would arbitrarily restrict patient access to care.

First and foremost, ATA Action has significant concerns with stated and implied in-person care requirements for teledentistry care. Lines 564-566 of HB 306 would require patients receiving teledentistry services to complete at least one in-person visit a year. There is no clinical justification for this requirement which would significantly limit access to teledental care, at the cost of patient flexibility, time and personal cost. Many Alabama patients would no longer have access to innovative new dental technologies, such as the ability to receive an on-demand emergency visit or other services using asynchronous teledentistry platforms.

Enacting this policy would also treat teledentistry providers differently than in-person providers and put unrealistic requirements on teledentistry patients and providers. To put this into context, legislation that

ATA ACTION

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



would require patients to see doctors or dentists in-person annually in order to be eligible to receive medical or dental care would never be considered, and neither should this requirement for teledentistry patients. Many counties in Alabama also lack an adequate number of brick-and-mortar dental offices, forcing patients to find new care providers or potentially travel a great distance for routine or even unnecessary care that could have been conducted virtually.

In addition to the explicit annual in-person requirements, ATA Action is also concerned about the implications of the physical examination requirements present in sections §34-9-18(18) and §34-9-6.2(e)(1). We acknowledge that there are situations in which the standard of care for the condition presented by the patient cannot be met through telehealth modalities, synchronous or asynchronous. This could be due to any number of reasons such as inability to properly evaluate the patient's condition outside of an in-person setting or due to technological barriers such as requiring equipment that the patient does not have access to at their location. In these instances, it is the responsibility of the provider to take steps to treat the patient in-person or direct them to seek other treatment that does meet the standard of care.

Importantly, our organization believes that licensed practitioners should be able to utilize the full range of available telehealth technologies while delivering virtual care, so long as the technologies being used are appropriate to meet the standard of care for the condition presented by the patient. But it should be practitioners, relying on their extensive education and clinical experience, who should have the ability to determine if treatment can be conducted via telehealth or in-person. State governments should seek to empower licensed providers to be able to offer patients safe access to the full market of available healthcare services, rather than arbitrarily pick winners and losers.

Additionally, ATA Action is concerned about the definition of “asynchronous technology” presented by the bill. The definition of asynchronous technology would limit the use of store-and-forward technology to communication between licensed dentists, preventing it between the dentist and the patient. This is significantly more restrictive than the asynchronous care definition permitted for physicians by the Alabama Physician's Practice Act and would prevent the use of this technology for care to the patient. Adoption of this term would make Alabama's definition of asynchronous technology among the most restrictive in the country.¹ Similarly, the definition of “synchronous technology” present in HB 306 also varies from the definition present in the Physician's Practice Act.² While ATA Action does not have substantive objections with the synchronous definition, in the interest of clarity for providers, legislators, and regulators we recommend uniformity in definitions across healthcare professions.

Finally, ATA Action also has serious concerns with the additional requirements that could risk teledentistry provider safety and would unfairly not be required of in-person providers. HB 306 proposes that teledentistry providers should give patients their direct telephone number, presumably their personal home or cell phone number. This is an unnecessary invasion of a provider's privacy and could be abused, for example, by those who are seeking prescription narcotics. If the legislature wishes to move forward with this requirement then in-person dental care providers should be subject to the same requirement. We also have concerns with the requirement for teledentistry to inform the patient of their physical practice

¹ Alabama Code § 34-24-701 <https://casetext.com/statute/code-of-alabama/title-34-professions-and-businesses/chapter-24-physicians-and-other-practitioners-of-healing-arts/article-12/section-34-24-701-definition>

²Alabama Code § 34-24-701



address. This misunderstands the framework for laws governing telehealth, which dictate that the telehealth encounter occurs at the originating site, or the patient's physical address. This rule could also mandate that, in certain situations, telehealth providers would have to give to patients the provider's personal home office address if that is the location the provider uses to provide teledentistry services; again, ATA Action does not believe this would be appropriate and could risk provider safety. Additionally, there is no clinical justification for the requirement to disclose the location of a telehealth provider.

This legislation places several unrealistic, anti-competitive, and arbitrary restrictions on the delivery of teledentistry services. We encourage you to consider how reducing access to convenient, safe, and often less costly teledentistry services will affect patients, particularly those in rural and underserved communities. If this bill were to pass, the ability of teledentistry providers to operate in Alabama would be severely curtailed and many could choose or be forced to stop treating Alabama patients, further limiting patient options. This is especially concerning given the fact that the United States Department of Health and Human Services considers sixty-six of the sixty-seven counties in Alabama as dental health professional shortage areas.³

We strongly encourage the Legislature not to move forward with this legislation in order preserve access to teledentistry for Alabama patients. Thank you for the opportunity to comment on this legislation. Please let us know if there is anything that we can do to assist you in your efforts to adopt practical telehealth policy in Alabama. 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,

Kyle Zebley
Executive Director
ATA Action

³ Health Professional Shortage Areas: Dental Care, by County, 2022 – Alabama.
<https://www.ruralhealthinfo.org/charts/9?state=AL>