



April 14, 2023

The Honorable Sylleste H. Davis
Chairman, South Carolina House Medical, Military, Public and Municipal Affairs Committee
Solomon Blatt Building
1105 Pendleton St., Room #425
Columbia, SC 29201

The Honorable Bobby J. Cox
Vice Chair, South Carolina House Medical, Military, Public and Municipal Affairs Committee
Solomon Blatt Building
1105 Pendleton St., Room #312B
Columbia, SC 29201

RE: ATA ACTION SUPPORT AND COMMENTS ON HOUSE BILL 4159

Dear Chair Davis, Vice Chair Cox and members of the House Medical, Military, Public and Municipal Affairs Committee,

On behalf of ATA Action, I am writing you to express our support for House Bill 4159 relating to telehealth.

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.

House Bill 4159 would serve as a rational expansion of South Carolina's telehealth policy in several ways. Among other provisions, the bill would permit providers to prescribe Schedule II and III controlled substances for the purposes of critical medication-assisted treatment without receiving individual clearance from the South Carolina Board of Medical Examiners, remove outdated requirements around prescribing non-controlled substances, and allow South Carolina patients to receive follow-up care from out of state practitioners without those providers being licensed in South Carolina.

ATA Action supports the Legislature's efforts to expand patient access to prescription medications in a safe manner consistent with the standard of care. Across the United States,

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patients and consumers are seeking more cost-effective and efficient ways to access the health care they need, and prescriptions are an essential part of that health care experience. Our organization believes that the choice about a patient's care plan, including the modality of care utilized to render care, should ultimately be the decision of an empowered patient and his or her provider, one that is made in accordance with the standard of care. Towards that end, ATA Action supports how House Bill 4159 removes outdated language that arbitrarily prohibits prescribing the (undefined) category of "lifestyle drugs" via telemedicine without prior Board approval. Removing this restriction—unique to South Carolina—will recognize the professional discretion of South Carolina licensed providers to deliver care for legitimate medical conditions via telehealth where appropriate and expand access to safe treatment, rather than patients turning to counterfeit or dangerous options.

ATA Action also strongly supports how House Bill 4159 would permit certified providers to prescribe Schedule II and III controlled substances for those seeking medication-assisted treatment without needing to seek authorization from the Board every time he or she prescribes these medications. This change will allow patients in need to continue accessing their prescriptions safely and more efficiently, just as they have been throughout the pandemic through federal and state government waivers. This is a policy supported by clinical evidence. The Journal of Substance Abuse Treatment published a study on two harm reduction primary care programs providing buprenorphine treatment for opioid use disorder via telehealth during the pandemic. The study found the removal of the in-person requirement greatly increased access to care and addressed health inequities. This is especially important as mental health and substance use disorders are impacting a growing number of the people across the country.

In addition to expanding access to medications utilized to treat patients with substance use and opioid use disorders, ATA Action believes that permanent controlled substance policy should focus on ensuring that patients can use telehealth technologies to receive prescriptions for substances that fall under the Schedule III and IV categories, as well as certain Schedule II substances (stimulants only) provided the prescriber of these substances otherwise complies with requirements under federal law. We encourage the Legislature to consider expanding the prescription-related provisions in House Bill 4159 further to apply to the substances outlined above, not just prescriptions used in medication-assisted treatment.

Additionally, our organization applauds the Legislature for expanding access to follow-up care via telehealth for South Carolina patients. Specifically, HB 4159 will allow for patients who established an in-person physician-patient relationship in another state for specialty care and treatment to receive ongoing care by that out-of-state provider, pursuant to an existing treatment plan via telehealth in South Carolina by the out-of-state provider between in-person visits without the out-of-state provider being required to be licensed in South Carolina. This will help to remove arbitrary geographical barriers that limit access to needed services and help patients maintain continuity of care services. ATA Action believes that patients should be able to receive virtual care from their preferred provider, regardless of that provider's physical location, so long as the practitioners are utilizing the appropriate technology to uphold the established standard of

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care and can still be held accountable by the appropriate Boards and state agencies should any issues arise from treatment. While we appreciate the additional flexibility provided to out-of-state providers, this aspect of the legislation is still fairly limited in scope. ATA Action recommends that South Carolina consider adopting full cross-state licensure compacts, which would provide South Carolinians with greater access to care services while ensuring safety and oversight by appropriate South Carolina licensure boards.

Finally, we encourage you to make take this opportunity to make a small change to the amended code sections [Section 40-42-20. (C)(4) and Section 40-47-37. (C)(4)] and remove the requirement for licensees to inform the patient of their location. The term location is undefined and could create confusion for providers as to the level of detail they must provide to patients regarding their location. 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; 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. However, if there is a preference to keep the location disclosure on behalf of the provider, ATA Action suggests the following amending language below:

(4) verify the identity and location of the patient and inform the patient of the licensee's name, ~~location~~ professional business address, and professional credentials; and

We thank you for your support for telehealth. We urge you to pass House Bill 4159 and consider our amendments in the interest of ensuring easy and efficient access to high-quality telehealth services. Please do not hesitate to let us know how we can be helpful to your efforts to advance common-sense telehealth policy in South Carolina. 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 that reads "Kyle Zebley". The signature is fluid and cursive, written over a light gray rectangular background.

Kyle Zebley
Executive Director
ATA Action