



March 28, 2024

The Honorable Christina Henderson
Chair, Committee on Health
Council of the District of Columbia
The John A. Wilson Building, S. 402
1350 Pennsylvania Avenue NW
Washington, DC 20004
chenderson@dccouncil.gov

Hon. Phil Mendelson
Chairman, Council of the District of Columbia
The John A. Wilson Building, S. 504
1350 Pennsylvania Avenue NW
Washington, DC 20004
pmendelson@dccouncil.gov

RE: ATA ACTION SUPPORT OF B25-0545 AND SUGGESTED CHANGES

Dear Chairman Mendelson and Councilmember Henderson,

On behalf of ATA Action, I am writing to you to express both overall support and suggested changes for the telehealth provisions within the Committee Print of Bill 25-0545, the Health Occupations Revision General Amendment Act of 2024.

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.

B25-0545 will provide clear guidance to telehealth providers to meet patients where they are for the provision of telehealth services, including for establishing practitioner-patient relationships, so long as those services are capable of meeting the standard of care. B25-0545 also makes clear that non-physician providers, such as advanced registered nurse practitioners, physician assistants, and all persons authorized to practice a health profession treating District of Columbia patients, may use telehealth technologies to deliver care where appropriate. These are positive steps for ensuring expanded access to care in the District.

While ATA Action remains in overwhelming support of this legislation, there are a few amendments which we respectfully ask the Council to consider before enacting this legislation at the first reading of the bill at the Council’s next Legislative Session where this bill will be voted on. The first

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proposed language modification is to the definition of “telehealth” on lines 138-141 of the proposed legislation. While we support the modality neutral definition of telehealth, in order to best align with common clinical terminology, we recommend that the definition be amended to replace the word “intervention” with the word “treatment”.

Second, we request that any future rulemaking for an “in-person” mandate on establishing a practitioner-patient relationship should only apply to veterinary care specifically (strike or amend line 557). As page 8 of the Committee Report makes clear, the inclusion of this new “in-person” limitation language was made on behalf of “testimony from veterinarians expressing concern that this is not appropriate for developing a Veterinarian-Client-Patient-Relationship (VCPR)” and would conflict with other guidelines in the veterinary space. But this is not the case for medical services. ATA Action’s position is that the modality used to deliver care should be determined by clinicians in consultation with their patients, not policymakers, and the modality used must meet the same standard of care as services delivered in-person.

Authoritative medical organizations agree with this position. Federation of State Medical Boards (FSMB) guidance, *The Appropriate Use of Telemedicine Technologies in the Practice of Medicine* states “A 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” (emphasis added).¹ The American Medical Association also endorses this FSMB guidance language in its entirety.² Therefore, in line with the best practice guidelines of these organizations, we request that the DC Council remove or amend the reference to “in-person physical examination” in the context of medical services on page 24, line 557 of the Committee Print so as to only apply to veterinary care.

Lastly, as this amendment to the HORA clarifies the definition of “Telehealth” in the District, clarifying the DC Code around the Certificate of Need (“CON”) process for telehealth providers becomes essential. We look forward to the upcoming separate CON hearing so we can continue to engage in discussions and provide solutions around this issue.

Thank you for your support for telehealth. Please do not hesitate to let us know how we can be helpful in your efforts to advance common-sense telehealth policy. 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 Zee", is written over a horizontal line.

¹ See page 6: <https://www.fsmb.org/siteassets/advocacy/policies/fsmb-workgroup-on-telemedicineapril-2022-final.pdf>.

² James L. Madara, MD, *AMA Support for Board Report 22-3*, American Medical Association, April 21, 2022, <https://searchlf.ama-assn.org/letter/documentDownload?uri=%2Funstructured%2Fbinary%2Fletter%2FLETTERS%2F2022-4-21-Wasserman-FSMB-Telemedicine-Final.zip%2F2022-4-21-Wasserman-FSMB-Telemedicine-Final.pdf>.



Kyle Zebley
Executive Director
ATA Action

cc: DC Council