



April 10, 2024

The Honorable Brett Guthrie
Chair of House Energy and Commerce Health Subcommittee
2125 Rayburn Office Building
Washington, DC 20515

The Honorable Anna Eshoo
Ranking Member of House Energy and Commerce Health Subcommittee
2125 Rayburn Office Building
Washington, DC 20515

Re: ATA Action Statement for the Record for House Energy and Commerce Health Subcommittee Hearing “Legislative Proposals To Support Patient Access To Telehealth Services”

On behalf of ATA Action, the American Telemedicine Associations affiliated trade association focused on advocacy, thank you for your continued support of telehealth and holding this critical hearing to examine comprehensive telehealth legislation that would ensure access to care for millions of Medicare beneficiaries.

Telehealth plays an essential role in our evolving healthcare system that has proven to expand access to care, reduce costs, assist with provider shortages, and overall help the health care system become more efficient and effective.¹ We appreciate that Congress understands the value of telehealth and continues to hold relevant bipartisan hearings to collect important information on virtual care as you contemplate telehealth policies post CY2024. ATA Action urges Congress to act sooner rather than later this year on telehealth to provide certainty for patients and providers across the country and provide U.S. healthcare systems enough time to implement appropriate virtual tools, technologies, programs, and processes moving forward.

Specifically, we urge Congress to make permanent the Medicare telehealth flexibilities implemented during the COVID-19 Public Health Emergency (PHE), including:

- **Removal of Antiquated Geographic and Originating-Site Restrictions**
Prior to the pandemic, a patient had to be in a designated rural area and in a healthcare clinic in order to have been able to receive reimbursable telehealth services under the Medicare program. During the PHE, the United States Department of Health and Human Services (HHS) waived these restrictions, thus allowing patients in any geographic area (not just rural) to receive telehealth services in any location, including in their homes. We urge Congress to permanently remove the Section 1834(m) geographic and originating-site restrictions to ensure that all patients can access care where and when they need it.
- **Ensure that Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) Continue to Furnish Telehealth Services**
FQHCs and RHCs provide critical health care services for underserved communities and populations across the United States. During the pandemic, FQHCs and RHCs serve as distant sites and can be reimbursed for telehealth services. ATA Action urges Congress to ensure that the

¹ [PRINT_ATA-TAW-Hill-Day-handout_9.11.23.pdf \(americantelemed.org\)](#)

roughly 1,400 FQHCs and 4,300 RHCs can continue offering telehealth services permanently while receiving fair reimbursement.

- **Permanently Expand the List of Eligible Medicare Providers**

During the pandemic, physician therapists, speech-language therapists, and occupational therapists were able to provide telehealth services and be reimbursed by Medicare. ATA Action is supportive of this flexibility and believes all practitioners should have the option to utilize virtual care when clinically appropriate and be reimbursed for the services rendered. We encourage Congress to consider enacting **the Expanded Telehealth Access Act (H.R. 3875, S.2880)** which would permanently allow all therapist services rendered via telehealth to be reimbursed by Medicare and give the HHS secretary authority to expand the list of telehealth providers.

- **Maintain Audio-only Coverage**

Congress and the Centers for Medicare and Medicaid Services (CMS) have expanded access to care since the pandemic, specifically for those lacking broadband or elderly individuals, by temporarily covering for audio-only services. ATA Action is modality, service, and provider neutral, meaning we believe any licensed provider should have the option to utilize different technologies to deliver care services so long as it meets the standard of care and is clinically appropriate. For this reason, we encourage Congress to ensure audio-only coverage is maintained permanently.

- **Repeal the Telemental Health In-person Requirement**

ATA Action applauds Congress for expanding access and allowing telemental health services to be a permanent part of the Medicare program through its passage of the Consolidated Appropriations Act, 2021, Pub.L. 116–260. However, also included was an unnecessary and unexpected guardrail, an in-person requirement. This provision, which would go into effect after 2024, requires providers to see their patients in person no more than six months prior to conducting a telemental health visit. ATA Action strongly opposes statutory in-person requirements, as they create arbitrary and clinically unsupported barriers to accessing affordable, quality health care. Requirements such as these could negatively impact those in underserved communities and populations who may not be able to have an in-person exam due to provider shortages, work, lack of childcare, and/or dearth of other resources.

Over 160 million people in the US live in designated mental health professional shortage areas.² Many counties have no mental health professionals at all. We cannot ignore the importance of providing all Americans, regardless of whether they have seen a provider in person, with the opportunity to access life-saving health care. We strongly urge Congress to enact the **Telemental Health Care Access Act (H.R. 3432)**, which would remove the statutory telemental health in-person requirement, allowing patients to receive care where and when they need it, especially when they are most vulnerable.

Fortunately, Congress, in a bipartisan, bicameral fashion, agrees with the principles laid out above with telehealth champions introducing key legislation to make these flexibilities permanent including ATA's top priorities – **CONNECT for Health Act (H.R. 4189, S. 2016)** and **the Telehealth Modernization Act (H.R. 7623, S.3967)**. We are also supportive of the recently introduced Advancing Access to Telehealth

² [Shortage Areas \(hrsa.gov\)](https://www.hrsa.gov)



Act ([H.R. 7711](#)). Again, we urge Congress and the House Energy and Commerce Committee to come together to pass permanency legislation well before the end of 2024.

Additional telehealth priorities before the Committee, supported by ATA Action , include the imminent expiration of the acute hospital care at home program by year-end and the expansion of the virtual diabetes prevention program:

- **Preserve the Medicare Acute Hospital Care at Home Program (AHCaH)**

As COVID-19 spread quickly, Congress and CMS needed to find ways to free up hospital beds and prevent mass spreading. As a result, the AHCaH program was created which essentially allows patients with acute diagnosis to be treated within their homes rather than at the hospital. Since the implementation of this waiver, more than 300 hospitals across 129 health systems in 37 states are operating under the waiver—with no guarantee of payment permanence.³ Clinical outcomes of the AHCaH program have been outstanding. Lower readmission rates, high patient satisfaction, and lower costs of care are some of the proven benefits of this program.⁴ We applaud Congress for extending this program through CY2024 along with the other Medicare telehealth flexibilities but urge Congress to act permanently to ensure Medicare beneficiaries will not lose access to HaH programs that have demonstrated to provide excellent clinical outcomes and lower the costs of care. ATA is supportive of **Representatives Wenstrup and Blumenauer’s [discussion draft](#)** that extends the waiver program until 2027.

- **Expanding Access to Medicare Diabetes Prevention Program**

We are strongly supportive of expanding current health care programs to allow for the use of all types of virtual modalities, such as the Medicare Diabetes Prevention Program. ATA Action is supportive of the **PREVENT DIABETES Act ([HR 7856](#))** which would allow all CDC recognized delivery modalities, including virtual diabetes prevention platforms, to participate in the program while keeping important oversight, accountability, and program integrity protections in place. Enacting this legislation is imperative to help address the ongoing diabetes crisis in the United States which impacts 1 in 5 Medicare beneficiaries.

While we commend the Committee for convening this hearing, we wish to highlight the below two policy matters omitted from today’s hearing that if neglected will result in significant gaps in care.

- **Remote Prescribing of Controlled Substances**

Another important issue that is top of mind for many within the healthcare industry is the remote prescribing of controlled substances. Before the pandemic, the Ryan Haight Act mandated an in-person visit before prescribing controlled substances via telehealth. This requirement was waived during the pandemic and is set to end at the end of 2024. This has significantly increased access to essential treatments for millions of patients. The DEA is supposed to release proposed rules this year outlining a special registration process for telehealth prescriptions of controlled substances. This process could verify providers' credentials and history to protect against misuse, allowing qualified providers to receive DEA approval for virtual prescribing. We kindly request that Congress continues to urge DEA to maintain these critical and lifesaving flexibilities by either publishing a special registration process soon or extending the current flexibility post-2024.

³ "Approved Facilities/Systems for Acute Hospital Care at Home." CMS QualityNet. January 26, 2024. <https://qualitynet.cms.gov/acute-hospital-care-at-home/resources>.

⁴ [Acute-Hospital-At-Home-Background-10.22.pdf \(americantelemed.org\)](#)

- **Reinstate Virtual Cardiac Rehabilitation (CR)**

We applaud Congress for recognizing the importance of telehealth and extending a majority of the flexibilities through the end of CY2024. Unfortunately, there was a critical telehealth flexibility omitted leaving a tremendous gap in care. This flexibility allowed patients to complete cardiac rehab programs from home rather than having to travel to a hospital, rehab center, or physician's office. This expired at the end of the PHE on May 11, 2023, which led many of these virtual CR programs to shut down. These virtual CR programs cannot be reopened unless Congress takes immediate action. Therefore, it is imperative that this issue is addressed as soon as possible by enacting the **Sustainable Cardiopulmonary Rehabilitation Services in the Home Act (H.R. 1406, S.3021)** which would permanently restore access to virtual cardiac rehabilitation for hundreds of thousands of Medicare beneficiaries.

As Congress contemplates telehealth policy, we wanted to provide the Committee with key studies and research that dispel myths that telehealth leads to increased health care costs, overutilization, and is more susceptible to fraud, waste, and abuse than in-person care. For example:

- **Telehealth is Cost Effective:** Telehealth has been proven to reduce costs for hospitals and provider organizations, as well as for consumers. Several recent studies have shown that a telehealth consultation is as good as, and in some instances better than in-person care. Telehealth also enables consumers to receive care sooner, hence reducing disease progression and costs of care.^{5,6,7}
- **Telehealth Does Not Lead to Overutilization:** Telehealth has proven to reach vulnerable and underserved patients that otherwise would never have received care in the first place due to limited transportation, childcare, time off of work, etc. Many studies have proven that utilization of telehealth has decreased and leveled off since the midst of the pandemic.⁸
- **Telehealth is Not More Vulnerable to Fraud, Waste, and Abuse (FWA):** Telehealth is not more susceptible to FWA than in-person services. The Office of Inspector General (OIG) recently released a report that found Medicare telehealth did not increase fraud, waste, and abuse. Specifically, during the first nine months of the PHE -- March 2020 to November 2020 -- Medicare practitioners correctly billed for telehealth evaluation and management services in 95% of cases. There have been a few recent OIG and Department of Justice (DOJ) Medicare cases that have been mislabeled as “telefraud” when it is traditional telemarketing scams which have been around for decades. ATA Action does appreciate and understand this valid concern but there are current federal and state mechanisms and guardrails in place that are working to protect consumers and oversee providers.⁹ ([See here for ATA’s newest federal and state telehealth guardrails document](#))

⁵ Li, KY, Kim, PS, Thariath, J, Wong, ES, Barkham, J, & Kocher, KE. (2023). Standard nurse phone triage versus tele-emergency care pilot on Veteran use of in-person acute care: An instrumental variable analysis. *Acad Emerg Med*;30: 310-320.

⁶ Ascension. (n.d.). Task Force on Telehealth Policy. <https://connectwithcare.org/wp-content/uploads/2020/08/Ascension-Telehealth-Data.pdf>

⁷ National Committee for Quality Assurance. (n.d.). Findings and Recommendations: Telehealth Effect on Total Cost of Care.

<https://www.ncqa.org/programs/data-and-information-technology/telehealth/taskforce-on-telehealth-policy/taskforce-on-telehealth-policy-findings-and-recommendations-telehealth-effect-on-total-cost-of-care/>

⁸ [Patients-Providers-and-Plans-Increase-Utilization-of-Telehealth-Recent-Stats-2.18-2.pdf \(americantelemed.org\)](#)

⁹ [Telehealth-Integrity.pdf \(americantelemed.org\)](#)



ATA Action is here as a resource and looks forward to continuing to work with the Committee to ensure that the appropriate telehealth policies are permanently implemented in a timely manner without arbitrary and unnecessary barriers to care such as in-person, brick and mortar, or geographic requirements. Thank you for all your historic and current work on telehealth. Please reach out to kzebley@ataaction.org if you have any questions.

Kind regards,

A handwritten signature in black ink, appearing to read "Kyle Zebley".

Kyle Zebley
Executive Director
ATA Action