



May 7, 2024

The Honorable Jason Smith
Chair House Ways and Means Committee
1139 Longworth Office Building
Washington, DC 20515

The Honorable Richard Neal
Chair House Ways and Means Committee
1139 Longworth Office Building
Washington, DC 20515

Re: ATA Action Statement for the Record for House Ways and Means Committee Markup

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 markup on comprehensive telehealth legislation that would ensure access to care for millions of Medicare beneficiaries through CY2026. As you know, 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 ATA Action appreciates the Committee's urgency to act on telehealth earlier this year rather than later 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.

Although ATA Action would prefer for the Medicare telehealth flexibilities to be made permanent this year, we understand the dynamics and applaud the Committee for proposing a two-year extension of many of the critical flexibilities without arbitrary and unnecessary guardrails such as in-person requirements. Specifically, we are supportive of the bill extending the following telehealth provisions:

- the geographic and originating-site waivers
- the ability for Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) to continue to furnish telehealth services
- expanded list of eligible Medicare providers which would allow Physical Therapists, Occupational Therapists, Speech Language Pathologies, and Audiologists to render telehealth services
- the ability for audio-only coverage
- repeal of the telemental health in-person requirement
- preservation of the Acute Hospital Care at Home Program through CY2029

A few other ATA Action legislative priorities that we appreciate have been marked up previously this Congress include:

- **Telehealth Expansion Act (S.1001, HR 1843)** – would permanently allow individuals with HDHP-HSAs to receive telehealth coverage prior to meeting a deductible
- **Medicare Telehealth Privacy Act of 2023 (HR 6364)** – ensure all providers home addresses remain private

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



- **Telehealth Benefit Expansion for Workers Act of 2023 ([HR 824](#))** – would permanently allow telehealth to be an excepted benefit

Additional telehealth priorities, supported by ATA Action, that haven't been acted upon to date and weren't included in the legislative proposal that we believe if left omitted would lead to a tremendous gap 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.

- **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.

- **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 continues to contemplate telehealth policy post CY2024, 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.^{2,3,4}

- **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.⁵
- **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.⁶ ([See here for ATA’s newest federal and state telehealth guardrails document](#))

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 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

² 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.

³ Ascension. (n.d.). Task Force on Telehealth Policy. <https://connectwithcare.org/wp-content/uploads/2020/08/Ascension-Telehealth-Data.pdf>

⁴ 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/>

⁵ [Patients-Providers-and-Plans-Increase-Utilization-of-Telehealth-Recent-Stats-2.18-2.pdf \(americantelemed.org\)](#)

⁶ [Telehealth-Integrity.pdf \(americantelemed.org\)](#)