ata ACTION
Telehealth Policy to Transform Healthcare

November 4, 2026

Yvonne Laird
Mississippi State Board of Optometry
5 Old River Place, Suite 105
Jackson, Mississippi 39202

RE: ATA Action Comments on Proposed Readoption of Title 30, Part 2901 — Chapter 11, Telehealth

Dear Ms. Laird and members of the Mississippi State Board of Optometry,

On behalf of ATA Action, I am writing regarding the Board's proposed readoption of Title 30, Part 2901, Chapters 1 through 12. We recognize that Chapter 11 is being carried forward without substantive changes. However, because the full Part is before the Board and open for comment, we respectfully encourage the Board to use this opportunity to revisit the telehealth provisions, which impose restrictions that Mississippi law does not require and that are in tension with the standard the Legislature established.

ATA Action is the affiliated policy and legislative advocacy arm of the American Telemedicine Association. ATA Action is the leading advocacy organization dedicated to advancing policy and accelerating the adoption of technology-enabled healthcare. Working collaboratively with federal and state legislators and policymakers, our organization drives industry momentum by influencing legislative and regulatory developments in telehealth, virtual care, remote patient monitoring, artificial intelligence in health, health data privacy, private sector healthcare investment, and more. We represent a diverse membership – including hospital systems, technology companies, professional associations, direct-to-consumer digital health providers, payers, pharmaceutical manufacturers, digital therapeutics developers, and remote monitoring organizations.

The Legislature Established a Standard-of-Care Test, Not a List of Prohibitions

Mississippi Code Annotated § 41-127-1 authorizes a licensed health care practitioner to recommend treatment following an examination and provides that the examination may be conducted in person or through the use of instrumentation that transmits images and medical records electronically. The statute further provides that treatment recommendations made electronically are held to the same standards of appropriate practice as those in traditional provider-patient settings.

That is a standard-of-care test. It asks whether the care delivered in a particular encounter meets the standard that would apply in person, a clinical judgment, made by the treating provider, on the facts of the encounter. The statute places no categorical limits on modality, imposes no requirement that care begin in person, and does not restrict where a patient may be located. It applies across the licensed health professions, and the Legislature expressly contemplated that an examination may be conducted by electronic instrumentation.

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Chapter 11 Displaces That Standard with Categorical Rules

Chapter 11 does not apply the statutory test. It arbitrarily resolves in advance without clear justification, and for every patient, questions that § 41-127-1 assigns to the provider's clinical judgment:

- Rule 11.6(A) provides that telehealth "is not appropriate for establishing the doctor-patient relationship" and mandates that the relationship "begin with an initial face-to-face encounter."

- Rule 11.6(C) provides that telehealth services "cannot, based on current technologies and uses, replace an in-person comprehensive eye examination", a categorical finding that sits directly against a statute contemplating examination by electronic instrumentation.

- Rules 11.6(D) and 11.7 require the patient to be in the presence of an onsite health provider at an "Established Treatment Site," and expressly exclude the patient's private home.

Each of these provisions substitutes a fixed regulatory judgment for the case-by-case determination the statute requires. That is not applying the standard of care; it is arbitrarily preempting it. The Board has made no finding that the prohibited modalities fail to meet that standard in any particular case.

Recommendation

ATA Action respectfully encourages the Board to revise Chapter 11 so that it implements § 41-127-1 rather than departing from it. Specifically, we suggest that the Board strike the in-person encounter mandate at Rule 11.6(A), strike the categorical determination at Rule 11.6(C), and remove the originating-site and onsite-provider requirements at Rules 11.6(D) and 11.7, including the exclusion of the patient's home. In each case the governing question would become the one the Legislature posed: whether the care delivered meets the same standard of appropriate practice that would apply in a traditional provider-patient setting.

This approach would not reduce patient protection. The optometrist would remain fully responsible under the Optometry Act for meeting the standard of care in every encounter, and Rule 11.8(C) already requires a provider to advise a patient to obtain an in-person evaluation whenever the telehealth modality in use cannot supply the clinical information the encounter requires. That provision does exactly what the statute contemplates, and it does so without foreclosing modalities of care in advance.

Thank you for the opportunity to comment. If you have any questions or would like to discuss the telehealth industry's perspective further, please contact me at hyoung@ataaction.org.

Kind regards,

Hunter Young

Hunter Young
Head of State Government Relations
ATA Action