



Nevada Telehealth: Moving Beyond the Pandemic

Telehealth Law & Policy Updates State, Regional, and Federal JULY 13, 2023

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Overview

State level – Nevada and the SW Region

- Parity! Audio-only modality and behavioral health
- Out-of-state registrations and interstate compacts

Federal

- Telehealth flexibilities post-PHE
- Telehealth prescribing of controlled substances
- Regulatory oversight & drug advertising

What's next for Telehealth

- Digital health equity and inclusion

Reminder and disclosure

The information contained and delivered in this presentation are for educational and informational purposes only and should not be considered legal advice.

The views, opinions, and positions expressed are mine alone and do not necessarily reflect the views, opinions, or positions of my employers or affiliated organizations.

I hope the information presented will help you better navigate telehealth policy issues and support adding your voice to these discussions.

State – Nevada

SB119 – Parity

Continuation of coverage for telehealth services must be provided in the **same amount** as services provided in person or by other means, **except audio-only**, unless for mental health services.

Signed by Governor on May 29, 2023

Nevada



At A Glance

MEDICAID REIMBURSEMENT

- Live Video: Yes
- Store-and-Forward: Yes
- Remote Patient Monitoring: No
- Audio Only: Yes

PRIVATE PAYER LAW

- Law Exists: Yes
- Payment Parity: Yes

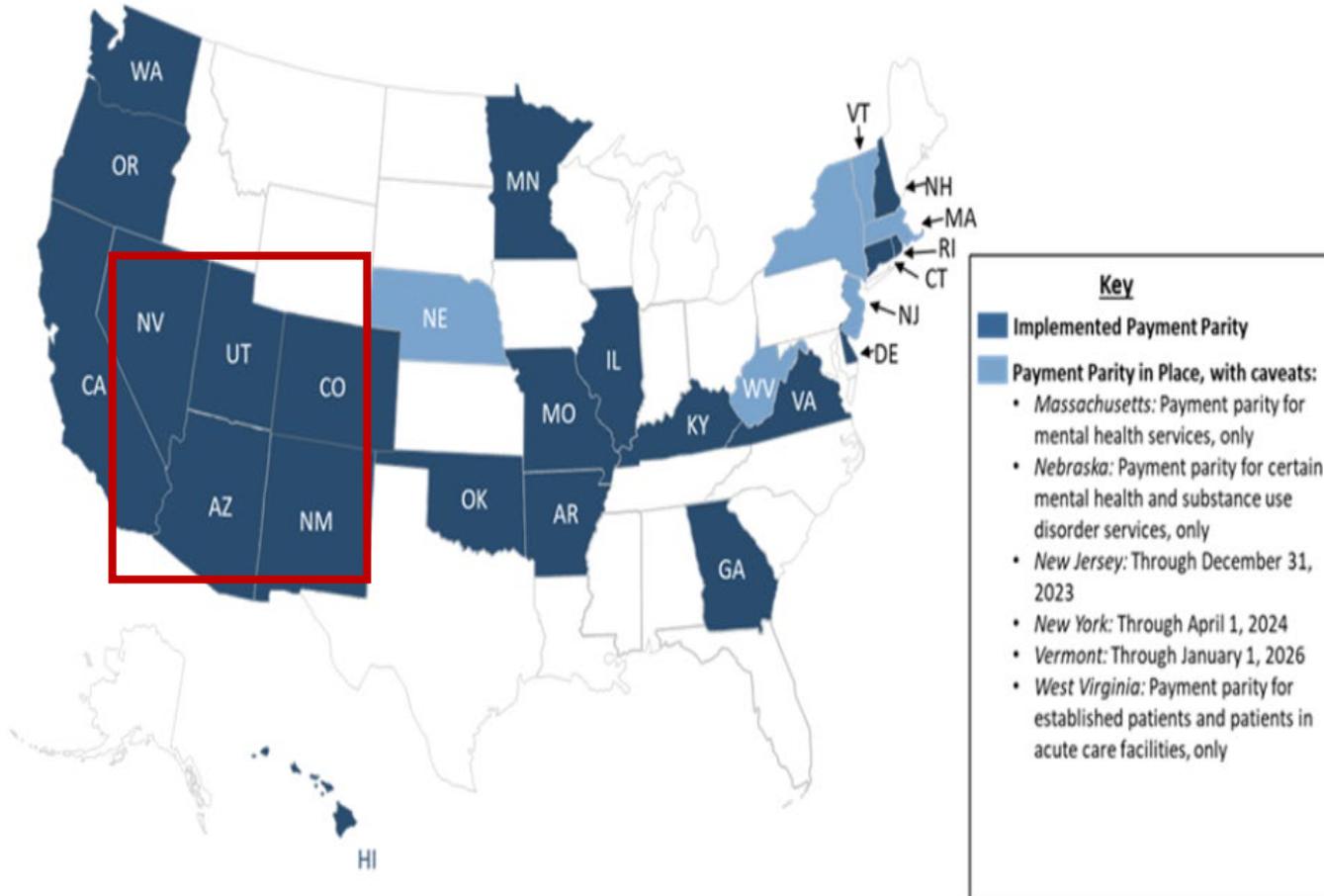
PROFESSIONAL REQUIREMENTS

- Licensure Compacts: IMLC, PSY

<https://www.cchpca.org/nevada/>

<https://www.cchpca.org/pending-legislation/>

Figure 1. Map of States With Laws Requiring Insurers to Implement Payment Parity (as of April 2023)



**21 states:
Explicit Payment
Parity**

**6 states:
Payment Parity
with **Caveats****

**23 states:
No Payment Parity**

Source:
<https://www.jdsupra.com/legalnews/executive-summary-tracking-telehealth-6103521/>

Legislative Telehealth Definitions re: Modalities Parity and Medicaid Reimbursement Impact Access to Healthcare



Telehealth Advisory Committee

Submitted [report](#) re: **audio-only** on 12/2021 and [amended](#) on 3/2022.

Source:

<https://www.cchpca.org/resources/state-telehealth-laws-and-reimbursement-policies-report-spring-2023/>

Legislative Telehealth Definition

Interactive use of **audio**, video or other electronic media, including asynchronous store-and-forward technologies and remote patient monitoring technologies, for the practice of health care, assessment, diagnosis, consultation or treatment and the transfer of medical data; and

Audio-only if an audio-visual telehealth encounter is not reasonably available due to the patient's functional status or lack of technology or infrastructure limits, as determined by the healthcare provider.



AZ HB 2454

Enacted May 2021

36-3601. [Definitions](#)

Legislative Telehealth Definition

Delivery of medical services through **HIPAA-compliant telecommunications** systems, while the patient is located at an originating site and the licensee is located at a distant site.

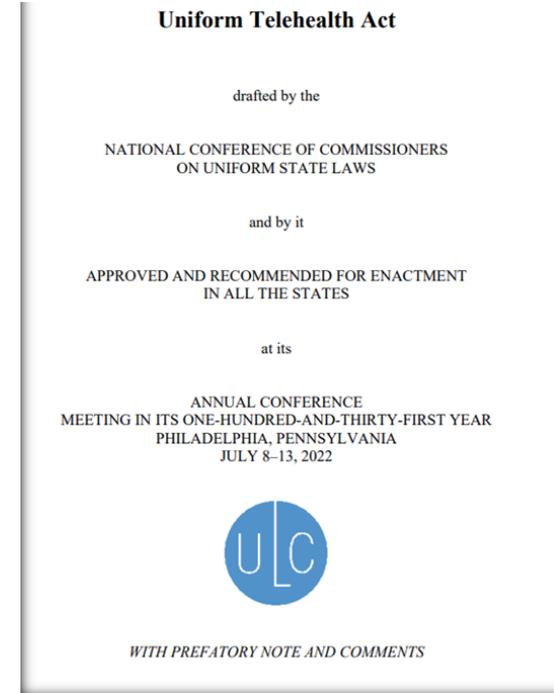
CO HB 1190
Enacted May 2021



Uniform Telehealth Act

Telehealth definition

Use of **synchronous or asynchronous telecommunication technology** by a practitioner to provide health care to a patient at a different physical location than the practitioner.



<https://www.uniformlaws.org/committees/community-home?CommunityKey=2348c20a-b645-4302-aa5d-9ebf239055bf>

October 2022

Legislative Telehealth Definition



“Telehealth” means the delivery of services from a provider of health care to a patient at a different location through the use of information and **audio-visual communication technology**, not including facsimile or electronic mail.

NV Revised
Statutes

[Sec. 629.515\(c\)](#)

The term includes, without limitation, the delivery of services from a provider of health care to a patient at a different location through the use of:

- (1) Synchronous interaction or an asynchronous system of storing and forwarding information; and
- (2) **Audio-only interaction**, whether synchronous or asynchronous.

Table 1. Rates of Telehealth Use and Audio-only vs. Video Modality, by Demographic Categories, April 14, 2021 – August 8, 2022

	% with a Telehealth Visit in Previous Four Weeks April 14, 2021 to August 8, 2022	Second Cohort* (July 21, 2021 to August 8, 2022)		
		% with a Telehealth Visit in Previous Four Weeks	% of Telehealth Visits by Video in Previous Four Weeks	% of Telehealth Visits by Audio-only in Previous Four Weeks
Race and Ethnicity				
Hispanic or Latino	23.9	22.7	49.7	50.3
White alone, not Latino	20.7	19.6	61.3	38.7
Black alone, not Latino	26.1	25.0	50.1	49.9
Asian alone, not Latino	21.7	20.8	49.5	50.5
Two or more races + Other	25.5	24.2	59.8	40.2
Age				
18-24 years	17.6	16.0	72.5	27.5
25-39 years	20.7	18.6	69.3	30.7
40-54 years	22.7	20.9	60.9	39.1
55-64 years	23.6	21.1	52.1	47.9
> 65 years	24.6	22.0	43.5	56.5
Education				
Less than high school	24.5	24.0	35.8	64.2
High school or GED	20.7	19.7	46.5	53.5
Some college/Associate's degree	22.8	21.6	58.3	41.7
Bachelor's degree or higher	22.4	21.3	66.7	33.3
Household Income				
Less than \$25,000	26.4	25.3	47.6	52.4
\$25,000 - \$34,999	23.3	21.9	48.9	51.1
\$35,000 - \$49,999	21.8	20.6	53.3	46.7
\$50,000 - \$74,999	21.0	19.9	56.9	43.1
\$75,000 - \$99,999	20.2	19.2	62.0	38.0
> \$100,000	20.4	19.4	67.9	32.1
Insurance				
Medicare	26.8	25.5	46.1	53.9
Medicaid	28.3	26.8	53.4	46.6
Private	20.2	19.2	65.3	34.7
Other Health Insurance	24.4	23.1	53.8	46.2
Uninsured	9.4	9.0	46.9	53.1
Census Region				
Northeast	23.3	22.3	59.6	40.4
South	21.3	20.1	58.0	42.0
Midwest	18.7	17.7	57.7	42.3
West	24.9	23.9	54.1	45.9



Summary from ASPE 2022 Issue Brief

- **Highest video telehealth use** occurred among:
 - young adults ages 18 to 24 (72.5%)
 - those earning at least \$100,000 (68.8%)
 - those with private insurance (65.9%)
 - White individuals (61.9%)
- **Lowest video telehealth use** occurred among:
 - those without a high school diploma (38.1%)
 - adults ages 65 and older (43.5%)

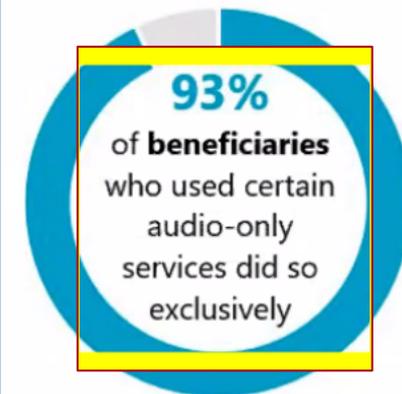
<https://aspe.hhs.gov/sites/default/files/documents/4e1853c0b4885112b2994680a58af9ed/telehealth-hps-ib.pdf>

<https://www.aspe.hhs.gov/reports/updated-hps-telehealth-analysis-2021-2022>

- **Almost 1 in 5 beneficiaries used certain audio-only telehealth services, with the vast majority of these beneficiaries using them exclusively.**
- **Older beneficiaries were more likely to use these audio-only services than younger beneficiaries.**
- **Notable because older beneficiaries were less likely to use all telehealth services than younger beneficiaries.**

Medicare Telehealth Services During the First Year of the Pandemic:
Program Integrity Risks
<https://oig.hhs.gov/oei/reports/OEI-02-20-00720.pdf>

The vast majority of beneficiaries who used certain audio-only services **did not use any audio-video telehealth services.**



Source: OIG analysis of CMS data, 2022.

Nevada Telehealth Legislation



[AB 198](#) – Out-of-State Telehealth Providers (not pass)

- Telehealth registration for out of-state providers to provide telehealth services to Nevada residents and restrict in-person care
- Non-registered out-of-state providers to provide consultations, specialty assessments, second opinions, or follow-up care w/existing patients
- [Presentation](#) from Sponsor David Orentlicher (Exhibit submitted on May 29, 2023)

[AB 108](#) – Enacts the Nurse Licensure Compact (not pass)

[AB 37](#) - Establishes Behavioral Health Workforce Development Center of Nevada

Signed by Governor: June 15, 2023

Telehealth registration, exceptions, special (*restricted*) license



Telehealth Registration

- Current, valid, and unrestricted license in another state;
- Not subject to any past disciplinary proceedings in any state where the provider holds a professional license;
- Must maintain and provide evidence of professional liability insurance;
- Must not open an office or offer in-person treatment in that state; and
- Must annually register and pay a fee with the appropriate state licensing board.

Examples of Telehealth registration:

- [Arizona](#)
- [Florida](#)
- [Indiana](#)
- [Kansas](#)
- [Minnesota](#)
- [Vermont](#)
- [West Virginia](#)

Compact Nation

Increasing in number of states, applications, and new compacts

- Interstate Medical Licensure Compact (IMLC)*
- Nurse Licensure Compact (NLC)
- Advanced Practice Registered Nurse Compact (APRN Compact)
- Emergency Medical Services Personnel Licensure Compact (The EMS Compact)
- The Physical Therapy Compact (PT Compact)
- The Psychology Interjurisdictional Compact (PSYPACT)*
- Audiology and Speech-Language Pathology Interstate Compact (ASLP-IC)
- The Occupational Therapy Licensure Compact (OT Compact)
- Counseling Compact - (CC)
- Social Work Compact
- Physician Assistant Compact

- Dentists and Dental Hygienists Compact (in development)

**Compacts enacted in Nevada*

Adoption of Interstate Compacts continue to be common for states.

THE NUMBERS:



Source:

https://www.cchpca.org/2023/05/Spring2023_Infographic5.pdf

Compacts enacted by state as of Spring 2023:

https://www.cchpca.org/2023/05/Spring2023_SummaryChart.pdf

Licensure

Getting started with licensure

Licensing across state lines

Licensure compacts

Licensure for behavioral health

Licensure

Licensure compacts

Multi-state compacts, or agreements between states, make licensing easier to navigate by streamlining the application process.



On this page:

- [Overview of multi-state licensing compacts](#)
- [Compacts for physicians and nurses](#)
- [Allied and auxiliary health care workers](#)
- [Emergency medical services personnel](#)

Overview of multi-state licensing compacts

Licensing compacts are one way that [state regulatory oversight](#) of health care can offer a faster pathway to interstate telehealth practice. Compacts are created when a certain number of states agree upon a uniform standard of care and enact a state law to support that standard.

Each state in the compact agrees that a telehealth appointment occurs in the state where the patient is located at the time of the appointment. This approach enables both the home and compact states to maintain their oversight over health care professionals practicing within their borders and ensure patient safety. Provider participation in a compact is voluntary.

Source:

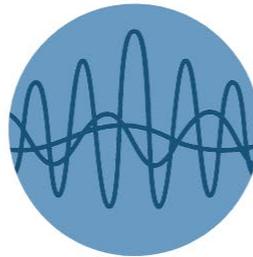
<https://telehealth.hhs.gov/licensure/licensure-compacts>



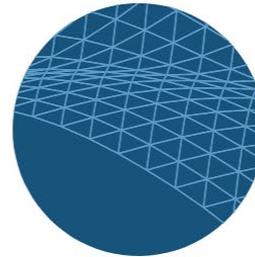
Licensing resources for



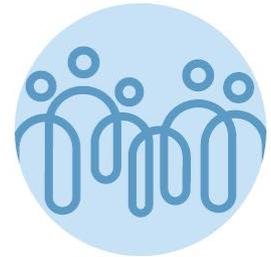
Occupational Therapists



Physical Therapists



Psychologists



Social Workers

A Cancer Patient's Brutal Commute

Maki Inada has to drive 5½ hours to see a doctor because of state laws restricting telemedicine.

By Ateev Mehrotra and Barak Richman
July 12, 2021 6:40 pm ET

PRINT TEXT

223

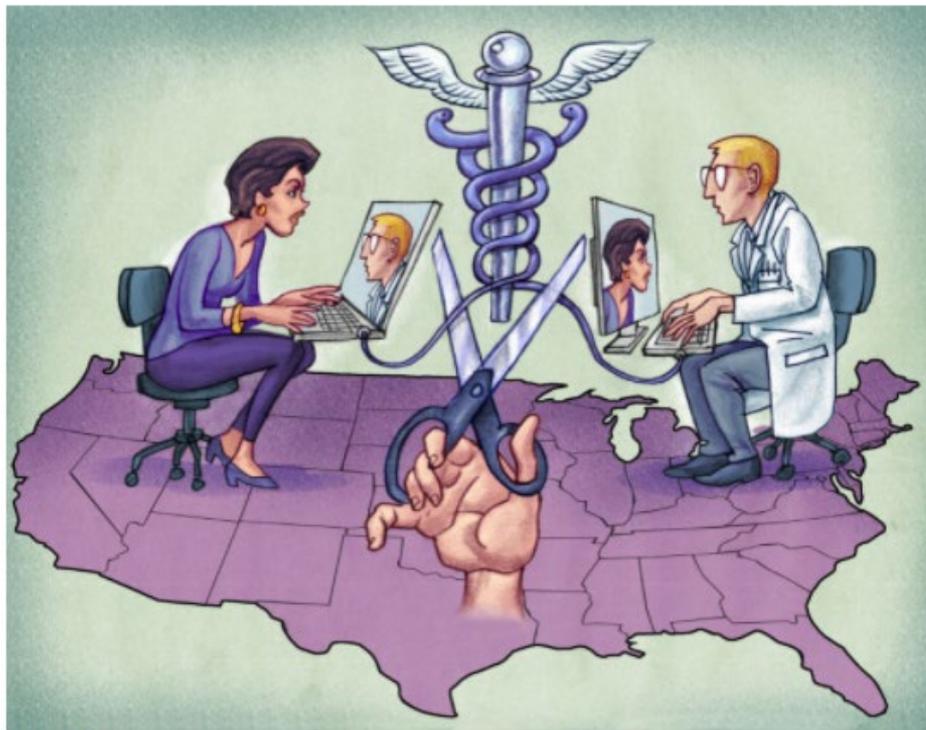


ILLUSTRATION: DAVID KLEIN

Dana-Farber told Ms. Inada she'll have to be **physically located in Massachusetts** for a visit.

She doesn't have to go all the way to the doctor's office, a 5½-hour drive each way.

She can drive 3½ hours, **cross the border** into Massachusetts, pull over, and have a telemedicine visit in the car.”

HealthAffairs

DEA Telehealth Proposal Brings Risks, Not
Patient Protections

[Georgia Gaveras, DO](#)

MARCH 23, 2023

“Choosing a psychiatrist should not simply be determined by proximity.

Expertise, ability, and therapeutic alliance — the trust and safety a patient feels with their provider — are all critical for successful outcomes.”

If limit telehealth practice options out-of-state providers:

Considerations:

- Is the restricting access justified?
- Patient-centered care?
- Provider shortage?
- Other oversight measures to ensure quality of care and patient safety

VA » Office of Public and Intergovernmental Affairs » News Releases

Office of Public and Intergovernmental Affairs

VA Expands Telehealth by Allowing Health Care Providers to Treat Patients Across State Lines

May 11, 2018, 08:59:00 AM

Federal

- Telehealth flexibilities post-PHE
- Telehealth prescribing of controlled substances
- Regulatory oversight & drug advertising

PHE is Ending

Key Dates for Telehealth



<https://www.hhs.gov/about/news/2023/04/11/hhs-office-for-civil-rights-announces-expiration-covid-19-public-health-emergency-hipaa-notifications-enforcement-discretion.html>

Federal Telehealth Legislation

Telehealth Expansion Act of 2023

Permanently extend waiver for telehealth services from high deductible health plans (first dollar coverage).

Status: On way to House floor

Telehealth CONNECT Act 2023

Creating Opportunities Now for Necessary and Effective Care Technologies Act

- First introduced in 2016 to expand virtual care for Medicare beneficiaries and now three years of data
- **60 senator sponsors** reintroduced on June 15, 2023; companion bill [HR 4189](#)
- Make permanent many of the flexibilities that currently expire at the end of 2024 with the [Consolidated Appropriations Act 2023](#)

Disentangling Telehealth from the Public Health Emergency

By Tara Sklar, JD, MPH on Jan 12, 2023



<https://telemedicine.arizona.edu/blog/disentangling-telehealth-public-health-emergency>

Extended to December 31, 2024

In-person visits for telebehavioral health waived under CAA, but **virtual prescribing for controlled substances** tied to PHE and return of the Ryan Haight Act.



FEDERAL REGISTER

The Daily Journal of the United States Government



PR Proposed Rule

Telemedicine Prescribing of Controlled Substances When the Practitioner and the Patient Have Not Had a Prior In-Person Medical Evaluation



ARIZONA TELEMEDICINE PROGRAM WEBINAR SERIES

The practice and delivery of healthcare is changing with an emphasis on improving quality, safety, efficiency, & access to care. Telemedicine can help you achieve these goals! The Arizona Telemedicine Program and Southwest Telehealth Resource Center invite you to a free one-hour CME webinar on the implementation and practice of telemedicine.

CME provided by The University of Arizona College of Medicine - Tucson

NAVIGATING TELEHEALTH LEGISLATIVE AND POLICY CHANGES BEYOND THE PUBLIC HEALTH EMERGENCY

WEDNESDAY, APRIL 12, 2023
12:00 pm MST - 1:00 pm CST - 2:00 PM EST

Join us to learn about the latest in telehealth legislation and policy changes.

OUTCOME OBJECTIVES

- Incorporate into telehealth practice current legislation, policies, and regulations.
- Implement recommended processes for complying with telehealth legislation and regulations.
- Gain proficiency in current federal and state legislation that impact telehealth and virtual care options.
- Increase understanding in the impact of telehealth legislation across provider specialty areas and patient population groups.

CONTINUING MEDICAL EDUCATION

Accreditation Statement

The University of Arizona College of Medicine - Tucson is accredited by the Accreditation Council for Continuing Medical Education to provide continuing medical education for physicians.

The University of Arizona College of Medicine - Tucson designates this live activity for a maximum of 1.0 AMA PRA Category 1 Credit(s)[™]. Physicians should claim only the credit commensurate with the extent of their participation in the activity.

Disclosure Statement

All Faculty, CME Planning Committee Members, and the CME Office Reviewers have disclosed that they do not have any relevant financial relationships with ineligible companies that could constitute a conflict of interest concerning this CME activity.

For more information, contact **Melanie Esher, MAdm**, at mesher@telemedicine.arizona.edu

This webinar is made possible through funding provided by Health Resources and Services Administration, Office for the Advancement of Telehealth (U1U42527).

PRESENTER



Tara Sklar, JD, MPH
Faculty Director, Arizona Law
Senior Advisor, Arizona Telemedicine Program

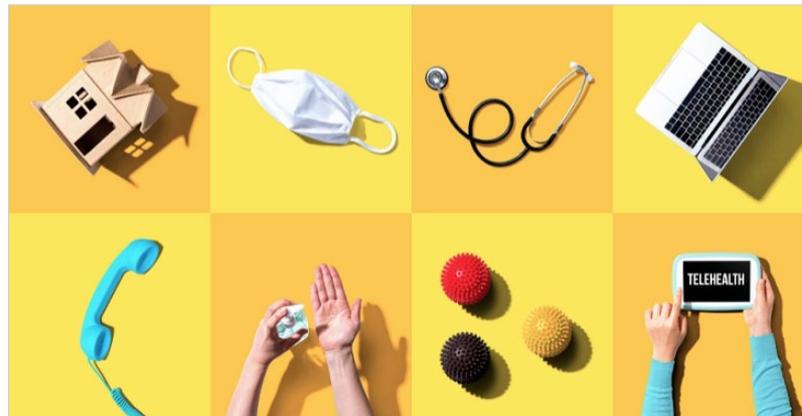
Tara Sklar is the Faculty Director of the Health Law & Policy Program at Arizona Law. She also holds appointments as Senior Advisor for Telehealth Law & Policy with the Arizona Telemedicine Program and for Innovations in Healthy Aging with the University of Arizona Health Sciences. Sklar currently serves as a telehealth policy consultant with the Department of Health and Human Services, Health Resources & Services Administration in the Office for the Advancement of Telehealth.

REGISTRATION

www.telemedicine.arizona.edu

Q&A from 'Navigating Telehealth Legislative and Policy Changes Beyond the Public Health Emergency'

By Tara Sklar, JD, MPH on April 27, 2023



Webinar recording from April 12, 2023:
<https://swtrc.wistia.com/medias/zapr3125bp>

<https://telemedicine.arizona.edu/blog/qa-navigating-telehealth-legislative-and-policy-changes-beyond-public-health-emergency>



Statement from the DEA Administrator Anne Milgram on COVID-19 Telemedicine Flexibilities for Prescription of Controlled Medications

May 03, 2023

DEA Administrator

The Drug Enforcement Administration received a record 38,000 comments on its proposed telemedicine rules. We take those comments seriously and are considering them carefully. We recognize the importance of telemedicine in providing Americans with access to needed medications, and we have decided to extend the current flexibilities while we work to find a way forward to give Americans that access with appropriate safeguards.

For this reason, last week, DEA, in concert with the Department of Health and Human Services, submitted a draft Temporary Rule to the Office of Management and Budget entitled “Temporary Extension of COVID-19 Telemedicine Flexibilities for Prescription of Controlled Medications.” Further details about the rule will become public after its full publication in the Federal Register.

Source

<https://www.dea.gov/documents/2023/2023-05/2023-05-03/statement-dea-administrator-anne-milgram-covid-19-telemedicine?fbclid=IwAR136kHPbHsqEi-clZ4vCFV5pMyVzrXly2NW6eB141o9tMM9kYvDfi5ePw0>

What happens next?

By November 11, 2023

Existing patient-provider relationships grandfathered in until November 2024

1. DEA may publish what was originally proposed:

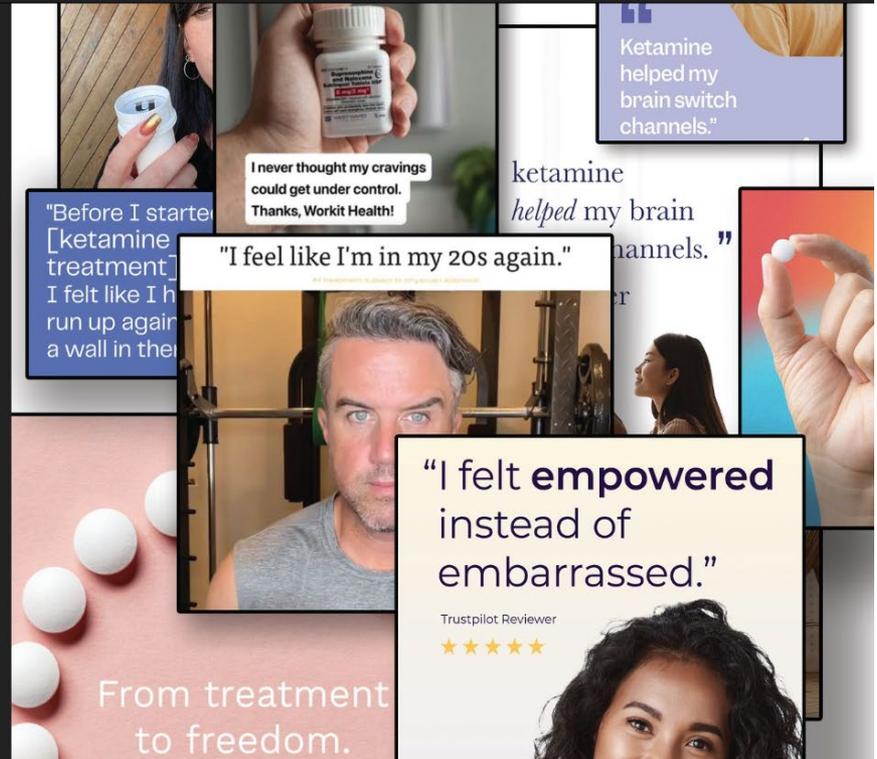
Rule **accomplishes the goals** of the problems identified and respond to comments, including **alternative solutions** which could be more effective or cost less.

2. Modified proposed rule

3. Delays

Misleading Ads Fueled Rapid Growth of Online Mental Health Companies

Some employees and patients say these marketing practices have contributed to the abuse of controlled substances



“Digital ad spending by telehealth companies **swelled to more than \$100 million** in 2021 from around \$10 million in 2020.”



Supports a full ban of direct-to-consumer ads.

*“It turns the healthcare interaction on its head where you’re **starting with the treatment** instead of starting with the problem,”* - Jack Resneck, AMA president.

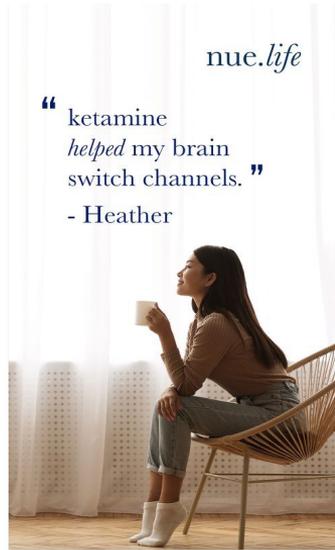


Has oversight over drug manufactures or distributors.

- Present information on each side effect and contraindication and effectiveness – a “true statement of information”
- Not false or misleading
- Approved or permitted for use
- Fair balance (benefits and uses with side effects and risks)



Takes action against **misleading ads**, but it doesn't require prescription-drug ads to include risk information and potential side effects when the ads discuss drug benefits.



Telehealth companies under investigation argue they **facilitate interactions** between patients and providers and do not engage in prescription process.

What's next for Telehealth

- Digital health equity and inclusion

Definitions

Digital Health Equity

Everyone should have a **fair and just opportunity** to engage with and benefit from **digital health tools.**

Individuals and communities have the information technology capacity that is needed for **full participation in the society and economy** of the United States.

Sources

Disparities, HealthyPeople.gov, <https://www.healthypeople.gov/2020/about/foundation-health-measures/Disparities>, "highest level of health for all people."
Paula Braveman et al., What is Health Equity?, Robert Wood Johnson Found. (2017), <https://www.rwjf.org/en/library/research/2017/05/what-is-health-equity-.html>.
Digital Equity Foundation Act of 2023: <https://track.govhawk.com/public/bills/1748272>

What is the “Digital Divide”?

Limited access to technology

Low digital literacy

Lack inclusive designs



Population Groups Disproportionately Impacted by the Digital Divide

- Older adults
- Racial and ethnic minority groups
- Disability
- Low socioeconomic status
- Living in rural areas
- Limited English Proficiency

<https://telemedicine.arizona.edu/blog/encounters-telehealth-older-adults-limited-english-proficiency-living-rurally>



The screenshot displays the Arizona Telemedicine Program website. At the top, there is a red header with the program's logo and name. Below this is a dark blue navigation bar with links for Home, Blog, About Us, Distance Education, and Applications & Network. A breadcrumb trail shows the path: Home » Encounters with Telehealth: Older Adults with Limited English Proficiency Living Rurally. The main content area features the title of the blog post, 'Encounters with Telehealth: Older Adults with Limited English Proficiency Living Rurally', followed by the author's name, 'By Alissa Hafezi on September 29, 2022'. At the bottom of the screenshot is a photograph of an elderly person's head and shoulder in profile, looking at a laptop screen. The laptop screen shows a telehealth session with a female healthcare provider wearing a white coat and a stethoscope.

Use of Telemedicine among Office-Based Physicians, 2021

ONC Data Brief | No.65 | March 2023

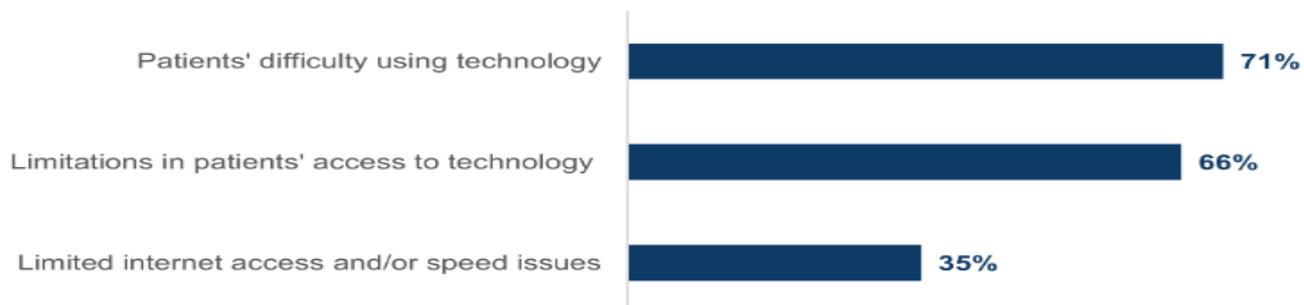


Office of the National Coordinator
for Health Information Technology

Patients' difficulty using telemedicine tools was the most common reported barrier affecting physicians' use of telemedicine.

FINDINGS

- ★ The most common barriers for telemedicine use experienced by physicians involved patients' difficulties using and accessing telemedicine technology.
- ★ Over 1 in 3 physicians reported internet access and speed issues as an issue affecting their use of telemedicine.
- ★ Less than 1 in 4 physicians reported telemedicine is not appropriate for their practice (26%) and telemedicine platform is not easy to use (18%).



Source: [https://www.healthit.gov/data/data-briefs/use-telemedicine-among-office-based-physicians-2021#:~:text=FINDINGS,-%E2%98%85&text=Not%20having%20any%20telemedicine%20platform,person%20visits%20\(under%2050%25\).](https://www.healthit.gov/data/data-briefs/use-telemedicine-among-office-based-physicians-2021#:~:text=FINDINGS,-%E2%98%85&text=Not%20having%20any%20telemedicine%20platform,person%20visits%20(under%2050%25).)

Develop Culturally/Linguistically Sensitive + Inclusive Solutions

HRSA designed this website for a Spanish speaking population.

Rather than solely **translating** the language into Spanish, they **evaluated the user functionality** of the website among Spanish-speakers and revised until easier navigation was achieved for this population.

<https://telehealth.hhs.gov/es>

TELEHEALTH.HHS.GOV

Para pacientes ▾ Para proveedores ▾ Sobre nosotros ▾

La Telesalud: Atención médica desde la seguridad de nuestros hogares.

Tanto si es un paciente buscando atención médica o un médico que la brinda, la telesalud nos mantiene conectados. Explora los recursos y consejos de la telesalud para proveedores y pacientes.

Más información sobre la Telesalud

Para pacientes

Entérese de lo que es la telesalud o la telemedicina y lo que debe esperar de una visita médica virtual. También puede ver nuestras sugerencias para encontrar servicios de telesalud.

- Qué es la Telesalud >
- La Telesalud y el COVID-19 >
- Encuentre servicios de Telesalud >
- Cómo prepararse para una visita virtual >

Vea más información en la página de pacientes >

Para proveedores

Aprenda las mejores prácticas para proporcionar atención a través de la telesalud y manténgase al día sobre los cambios recientes en la facturación y la política.

- Guías de mejores prácticas >
- Cambios en las políticas durante la COVID-19 >
- Facturación de la Telesalud >
- Igualdad en los servicios de salud >

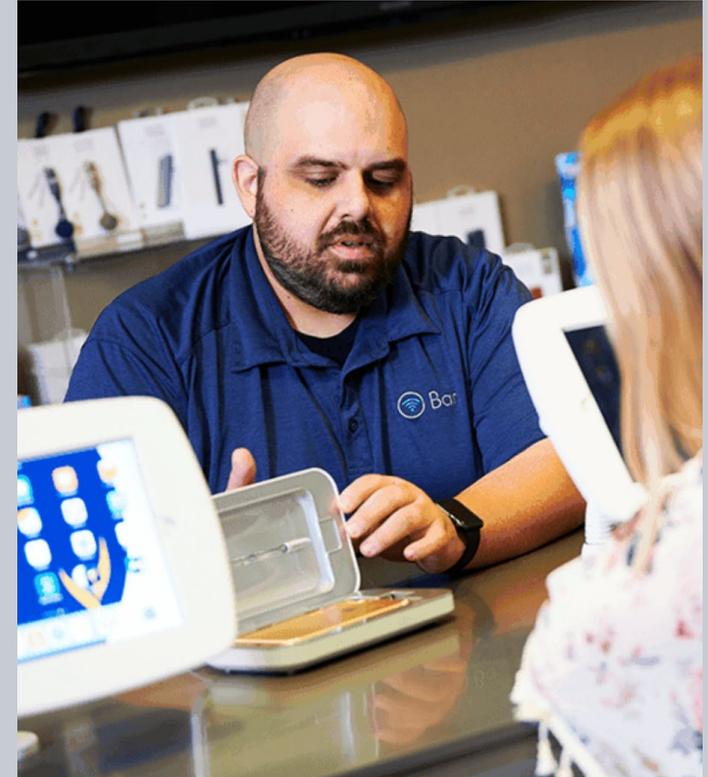
Vea más información en la página de proveedores >

Engage Diverse Patient Voices to Increase Engagement & Trust

Ochsner Health launched **O Bar**, an interactive experience for patients to try different physician-curated digital health tools.

Staffed by a full-time **technology specialist** who helps patients:

- choose the right health technology
- provide setup guidance and support (e.g., troubleshoot connectivity issues, better engage with devices).



Source:

Ochsner Health Website, <https://www.ochsner.org/shop/o-bar>; Is the Digital Divide the Newest Social Determinant of Health?, Patient Engagement HIT, <https://patientengagementhit.com/news/is-the-digital-divide-the-newest-social-determinant-of-health>

By Gillian K. SteelFisher, Caitlin L. McMurtry, Hannah Caporella, Kerl M. Lubell, Lisa M. Koonin, Antonio J. Neri, Eran N. Ben-Parath, Ateev Mehrotra, Ericka McGowan, Laura C. Espino, and Michael L. Barnett

Video Telemedicine Experiences In COVID-19 Were Positive, But Physicians And Patients Prefer In-Person Care For The Future

ABSTRACT To help inform policy discussions about postpandemic telemedicine reimbursement and regulations, we conducted dual nationally representative surveys among primary care physicians and patients. Although majorities of both populations reported satisfaction with video visits during the pandemic, 80 percent of physicians would prefer to provide only a small share of care or no care via telemedicine in the future, and only 36 percent of patients would prefer to seek care by video or phone. Most physicians (60 percent) felt that the quality of video telemedicine care was generally inferior to the quality of in-person care, and both patients and physicians cited the lack of physical exam as a key reason (90 percent and 92 percent, respectively). Patients who were older, had less education, or were Asian were less likely to want to use video for future care. Although improvements to home-based diagnostic tools could improve both the quality of and the desire to use telemedicine, virtual primary care will likely be limited in the immediate future. Policies to enhance quality, sustain virtual care, and address inequities in the online setting may be needed.

The increased use of telemedicine during the COVID-19 pandemic has been hailed as key to ensuring health care access in future pandemics, as well as a boon for patients who generally cannot easily access in-person care.^{1,2} However, the expansion of telemedicine during the pandemic was driven by a series of temporary regulatory and payment changes that will likely expire at the end of the nationwide public health emergency declaration.³ There is ongoing debate about postpandemic telemedicine policies, particularly in primary care, where telemedicine can facilitate access to preventive services, management of chronic conditions, mental health screening, and triage for infectious disease.^{4,5} One key factor in this debate is the perspective of providers

and patients. Depending on their interest in using video-based care, policies to sustain telemedicine in the postpandemic era may need to adapt to demand.

Prior studies examining physicians' and patients' perceptions of telemedicine during the pandemic have largely found high overall satisfaction with telemedicine for primary care during the pandemic, but there are important limitations. Many examined care in single systems or settings for specialized populations⁶⁻⁷ or relied on a relatively broad definition of satisfaction, such as willingness to recommend a practice to others.⁸ Few studies have been national in scope or asked providers or patients to make direct comparisons between in-person and virtual care. Further, only a few studies addressed the perceived quality of clinical care.^{9,10} Quantifying

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Key findings

Satisfaction high

Yet, strong preference to return to in-person care

- 80% of primary care physicians
- 64% of patients
- Older patients less likely to want to use video visits (even if have internet access)
- May reflect comfort level and concerns about age-based discrimination in an online setting.

Lack of preference is a problem for digital care to become a meaningful part of the health system.

Guidance on Nondiscrimination in Telehealth: Federal Protections to Ensure Accessibility to People with Disabilities and Limited English Proficient Persons

Telehealth is an increasingly important way of delivering health care. Many health care providers and patients have turned to telehealth during the COVID-19 public health emergency to reduce community spread of the virus, and it is now a more accepted way to provide and receive health care services. The U.S. Department of Health and Human Services (HHS) and the U.S. Department of Justice (DOJ) are committed to ensuring that health care providers who use telehealth, including telehealth that is available 24/7, do so in a nondiscriminatory manner.

With this guidance, the HHS Office for Civil Rights (OCR) and DOJ's Civil Rights Division (CRT) explain how various federal laws require making telehealth accessible by people with disabilities and limited English proficient persons. These laws include Section 504 of the Rehabilitation Act of 1973 (Section 504),¹ the Americans with Disabilities Act (ADA),² Title VI of the Civil Rights Act of 1964 (Title VI),³ and Section 1557 of the Patient Protection and Affordable Care Act (Section 1557),⁴ (collectively, "federal civil rights laws"). Section 1557 regulations specifically provide that covered health programs or activities provided by covered entities through electronic or information technology must be accessible to individuals with disabilities unless doing so would result in undue financial and administrative burdens or fundamental alteration of the health program.⁵

Practical tips on how to improve access to telehealth: <https://telehealth.hhs.gov/providers/health-equity-in-telehealth/improving-access-to-telehealth#telehealth-for-people-with-disabilities>

Guidance Source: <https://www.hhs.gov/civil-rights/for-individuals/disability/guidance-on-nondiscrimination-in-telehealth/index.html>

A person who is blind or has limited vision may find that the web-based platform their doctor uses for telehealth appointments does not support **screen reader software**.

A person who is deaf and communicates with a **sign language interpreter** may find that the video conferencing program their provider uses does not allow an interpreter to join the appointment from a separate location.

A limited English proficient (LEP) person may need **instructions in a language other than English** about how to set up a telehealth appointment.

Infrastructure Investment and Jobs Act

\$65 billion for digital equity

\$42.5 billion
for broadband
infrastructure

\$14.2 billion
for \$30
internet
subsidy

\$2.8 billion for
digital literacy

Additional
funds

SENATE No. 655

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Gomez

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to telehealth and digital equity for patients.

Digital health literacy screening program to identify low digital health literacy and support effective use of telehealth technology, including:

- educational materials about how to access telehealth in **multiple languages**, and in alternative formats;
- hold digital health literacy workshops;
- integrate digital health coaching;
- offer in-person **digital health navigators**; and
- partner with local **libraries** and/or community centers that offer digital health education services and supports.



Home

Online exams
Virtual visits



On the go

Mobile app
Patient portal
Clinical chats
Digital outreach



Schools



Business



Prisons



Rural clinics

Enhanced video visits: preventative, primary, behavioral, specialty care

Libraries; Faith-based centers



Ambulatory + Ancillary

Specialist consults
Support services: labs



EMS Transport

Prehospital consults



Hospital

Specialist consults + patient monitoring



Post Acute



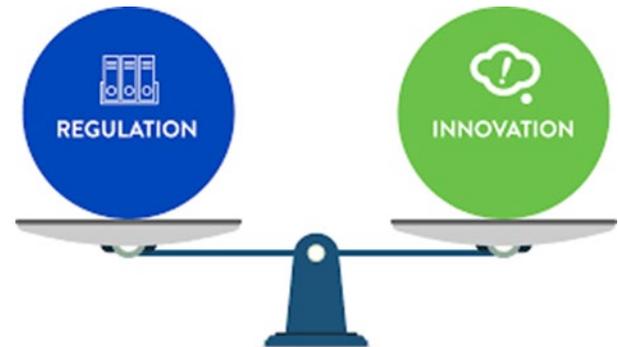
Home

Hospital recovery at home
Chronic care monitoring

Expanding care venues into the community

Address medical distrust and support access points to routine care

We talk about medical innovation, and we talk about regulation, but we don't spend nearly enough time talking about **regulatory innovation**.



SAVE THE DATE

October 24, 2023

**4th Annual Arizona Telemedicine Policy Summit
Phoenix, Arizona (Hybrid)**

Last year's policy summit and recording:

<https://telemedicine.arizona.edu/webinars/2022-11/arizona-telemedicine-policy-summit>

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Health Law

Thank you

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<https://telemedicine.arizona.edu/>

<https://southwesttrc.org/>

<https://law.arizona.edu/health>