



*House Bill 122 Interested Party Testimony
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Ohio House Insurance Committee
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Chairman Brinkman, Vice Chairman Lampton, Ranking Member Miranda and members of the House Insurance Committee, my name is Claudia Duck Tucker and I am the Senior Vice President of Government Affairs and Public Policy for Teladoc Health. Thank you for the opportunity to provide comments regarding HB 122 sponsored by Representative Mark Fraizer and Representative Adam Holmes. As the world's oldest and largest telehealth organization, we have a unique perspective. Teladoc Health is a mission driven organization; we are successfully transforming how people access and experience healthcare, with a focus on high quality, lower costs, and improved outcomes around the world. In 2020 in Ohio, we were able to save patients and payors over sixty million dollars in health care costs; 7,500 employers offer the Teladoc Health benefit to their employees; over 1.8 million lives are covered by Teladoc Health in this state. Teladoc Health performed over 120,000 telehealth consults in Ohio just last year.

The pandemic has taught us many things. While we all suspected that there were structural weaknesses in our health care system, the last 12 months have shown us how fragmented and fragile our health care system actually is. It also showed us the impact that telehealth has when people were told to shelter in place and not seek in person medical treatment unless it was an emergency. Governors and legislatures all over the country moved quickly to pass emergency legislation that allowed for increased use of telehealth through licensure waivers to enable companies like Teladoc Health and others to mobilize our national networks to deploy physicians to hot spots in individual states that were changing daily. We thank sponsors and co-sponsors for their work to develop good policy that is effective and impactful based upon sound clinical data and not anecdotal ponderings. As such, we strongly support the language in the proposed legislation that will keep in place the savings that telehealth offers to both the patient and payor by NOT requiring reimbursement parity. But, we do have concerns about a few provisions in the legislation that I want to share with you.

"Remote Patient Monitoring" through telehealth is an increasingly effective and cost saving way to monitor patients with chronic conditions like diabetes and cardiovascular disease. However, you should be aware that remote patient monitoring solutions are treated differently than durable medical equipment under the federal Medicare program. Durable medical equipment is equipment that help you complete daily activities, such as wheelchairs, walkers, hospital beds, oxygen tanks, canes and crutches. Remote patient on the other hand, enables patients to monitor themselves through technology to collect data about their health at various points throughout the day, then electronically transmit secure data in messages to their clinicians or technicians. The distinction is further supported by separate CMS billing codes to reflect the difference between durable medical equipment and remote patient monitoring devices. Under the billing codes for remote patient monitoring, clinicians must provide the devices to the patient rather than the patient acquire the device under their durable medical equipment benefit. As such, the

language as Introduced in HB 122 regarding durable medical equipment is problematic. Furthermore, late in the afternoon on March 23rd, Rep. Fraizer's office made us aware of AM0896-1 which we oppose as it is currently drafted as well. This amendment includes Remote Patient Monitoring as durable medical equipment, and remote patient monitoring is *not* a durable medical equipment by any standard.

Additionally, AM0896-1 now requires separate agreements with the patient before any asynchronous technology can be used in patient care. This is an arbitrary and clinically unsupported barrier to care. If a telehealth provider is already obtaining informed consent to treat a patient remotely then there is no need to have a separate agreement in place for a health care provider to be able to use asynchronous technology in patient encounters when appropriate to meet the standard of care.

As an alternative, we urge your acceptance of AM0638 which *deletes* the problematic remote patient monitoring language in the definition of durable medical equipment in lines 184 through 187 below:

“Durable medical equipment” includes a remote patient monitoring device utilized by a physician, physician assistant, or advanced practice registered nurse in accordance with this section.

Additionally, AM0638 does *not* include any redundant informed consent requirements for asynchronous encounters which only serve as clinically unsupported barriers to care. Therefore, we urge your *support of AM0638 and opposition to AM0896-1. If AM0896-1 is accepted into the bill, Teladoc Health unfortunately would have to oppose HB 122 due to this ill-advised amendment.*

We support the expansive definitions of “Health care professional” in Sec 4743.09 (3). The use of asynchronous technologies has a growing demand in telehealth for dermatology, remote patient monitoring and mental health treatment. The bill sponsors are wise to include this and tie it to the appropriate standard of care as seen on page 10, lines 258-261. The importance of focusing on the standard of care versus governing telehealth through restricting the type of modality is a key component of innovative telehealth policy; the sponsors again support this by allowing technology for an annual visit (page 11, lines 272-275).

Historically, the practice of medicine is regulated at the state level. A key lesson learned from the COVID-19 pandemic is that states must have a process in place to redeploy physicians during a pandemic regardless of where they are licensed, as long as they are licensed and in good standing in their home state. Although we do not have this language drafted in an amendment, we suggest that page 11, line 276 be amended as follows: After “professional” insert **and within the scope of practice** and strike the remaining part of the sentence on lines 277-278.

Teladoc Health also urges the inclusion of AM0637 into HB 122 which amends Sec. 4731.36 regarding medical second opinions. A patient may seek an expert medical second opinion for many reasons. Ohio is one of eight states that permit such consultation only in instances where

the in-state licensee "is responsible for the examination, diagnosis, and treatment of the patient who is the subject of the consultation." As a result, if a patient wishes to seek an out-of-state physician's second opinion without going through their treating physician they would need to physically travel out-of-state to the physician in order to receive it or forego an out-of-state expert medical second opinion altogether.

The intent of this amendment is to allow on behalf of a patient a general peer-to-peer consultation between an in-state licensed health professional and an out-of-state expert health professional not licensed in the state. The amendment allows the patient to seek the second opinion *only through a State Medical Board of Ohio duly licensed Ohio physician*. This language would align Ohio's policy with over 30 other states.

Once again, Chairman Brinkman and members of the committee, thank you for accepting my testimony on HB 122 as we believe this legislation has the potential to ensure greater access to telehealth services for Ohioans. However, amendments such as AM0896-1 are ill-advised and should be rejected by this committee. Please contact me if you need additional information.

Expert Second Opinion via Telehealth

Telehealth technologies have transformed the delivery of healthcare and amplified the reach of physicians to help patients. One way telehealth helps patients achieve better health outcomes is by facilitating medical expert second opinions without requiring patients to travel long distances and go to additional medical appointments.

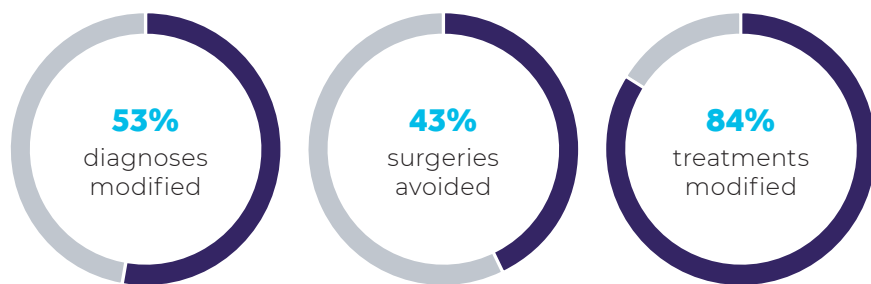
UNDUE BURDENS ON PATIENTS

Some state laws do not address patients' access to out-of-state expert second opinions via telehealth. While some states see the value in patient empowerment, not all states allow a patient to initiate a review of their medical records and diagnoses by a medical specialist licensed in another state. Patients should be able to access care through any in-state licensed physician of their choice. Access to medical specialists could be life changing – and lifesaving – for patients. State licensure laws should explicitly enable the use of this valuable service, especially for patients facing critical diagnoses. Many states allow this licensure exemption.

BETTER HEALTH OUTCOMES

Formalizing a general peer-to-peer licensure exemption for an expert second opinion via telehealth with a duly licensed out-of-state medical specialist would benefit patients by providing:

- **Increased Access** Avoid physical/financial hardships to access an out-of-state medical specialist
- **In-Depth Analysis** Troubleshoot lingering, resurgent or unresolved symptoms
- **Expert Advice** Access world-renowned medical specialists and subspecialists
- **Greater Autonomy** Patients become better informed and stronger self-advocates
- **Peace of Mind** Helps ensure patients receive top-quality treatment recommendations



HEALTHCARE SAVINGS THROUGH MODIFIED TREATMENTS

\$36,000
average cost savings per case reviewed

70%
of cases resulted in cost savings

LAWS AND REGULATIONS MUST EVOLVE

Generally, interstate licensure laws and regulations did not anticipate the possibility for new telehealth technologies to provide medical specialists in another state or country with sufficient medical information for comprehensive review and analysis of a patient's complex medical condition, nor the ability to communicate the expert opinion with the patient via telehealth.

Modernizing medical licensure laws and regulations will empower patients by providing access to expert second opinions in any state through a licensed physician in the state.

STATE LEADERS CAN ENHANCE PATIENTS' ABILITY TO SEEK EXPERT SECOND OPINION SERVICES VIA TELEHEALTH BY:

- 1. Explicitly allowing a state licensure exemption for general peer-to-peer consultation for expert second opinions**
- 2. Prioritizing patient empowerment in evaluating the efficacy of their own care plan**

Frequently Asked Questions



Why can't the treating in-state physician always serve as the intermediary between the patient and the medical specialist?

Patients uncertain about a diagnosis may be uncomfortable challenging the treating physician's diagnosis and treatment plan. Patients may also simply wish to receive an objective, impartial second opinion without the treating physician filter. In either situation, it should be the patient's right to choose whether – and to what extent – their treating physician is involved. Some states allow the patient to seek an out-of-state expert second opinion through any licensed in-state physician, and two states allow a patient to seek an out-of-state second opinion directly.

How does a patient access expert second opinion services from Teladoc Health today?

1. The patient initiates a request online or over the phone.
2. An intervening advocate Teladoc physician, licensed in the state where the patient is located, coordinates the case management, medical record collection, clinical summary development, and review process for the patient.
3. The intervening advocate Teladoc physician identifies an appropriate medical specialist and sends the patient's case to the specialist. The specialist receives and reviews the patient case. The specialist does not have direct contact with the patient.
4. The medical specialist completes a comprehensive review of the clinical summary, patient records, original diagnosis and treatment plan. The specialist prepares a report with an assessment of the diagnosis and treatment and recommendations for future treatment, if appropriate.
5. The intervening advocate Teladoc physician reviews the report with the patient. With the patient's consent, the report is shared with the patient's treating physician.
6. Teladoc maintains the report at least 10 years or to states' record retention requirements.

Why is legislation necessary?

Some state laws are silent on the issue of expert second opinion services rendered via telehealth. While patients can travel to a specialist located in another state to receive an expert second opinion regarding their diagnosis, patients cannot initiate a review of their medical records by this out-of-state expert via telehealth, unless the specialist is licensed in the state where the patient is located. This places an undue burden on patients who may be suffering from serious or life-threatening conditions or economically stressed by requiring them to spend unnecessary time and dollars travelling to visit a specialist for a second opinion.

Can't the licensed in-state physician consult via telehealth with a medical specialist?

State laws should explicitly allow peer-to-peer exemptions for any physician duly licensed in the state where the patient is located. . For many reasons, the patient may desire instead to seek an objective expert second opinion independent of the treating physician.

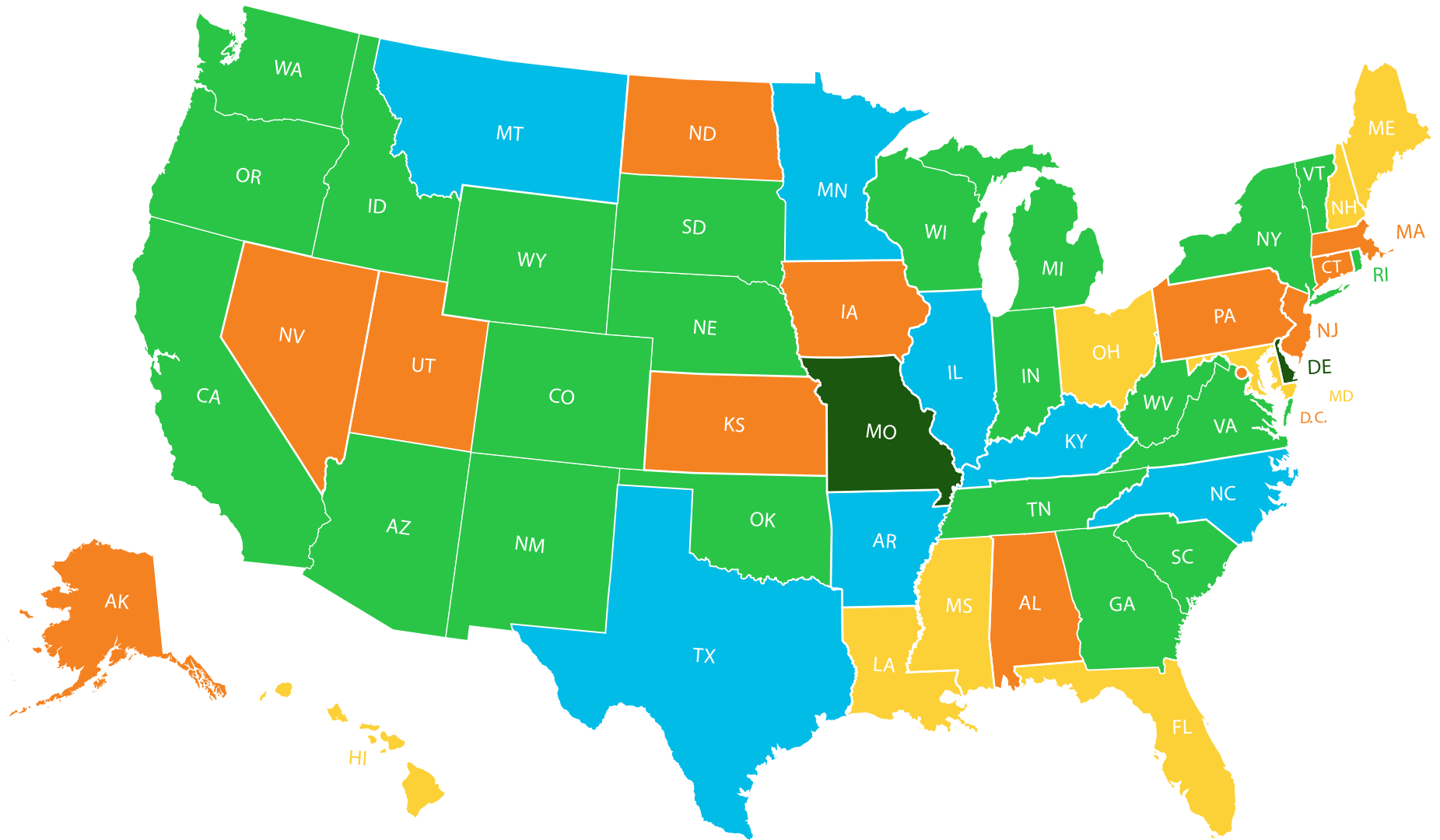
How does this impact other stakeholders? Does expert second opinion via telehealth have multilateral appeal?

This service has system-wide benefits. For insurance companies, expert second opinion services via telehealth provide beneficiaries access to the best, most efficacious care possible. Patients getting better care at the right time results in better health outcomes and cost savings for insurers, beneficiaries, and employers.

What medical issues can expert second opinions via telehealth address?

Expert second opinion via telehealth can address a variety of chronic and acute conditions for which patients have received a diagnosis and treatment plan from a state-licensed physician. This includes cancers, heart diseases, musculoskeletal issues, gastrointestinal disorders, and more.

Out-of-State Medical Expert Opinion Licensure Exemptions



KEY

- Direct to Patient
- General Peer-to-Peer
- Episodic Peer-to-Peer
- Treating Physician to Expert
- Silent/No Exemption