



November 9, 2021

The Honorable Stephen A. Huffman
Chair, Ohio Senate Health Committee
Ohio State Senate
1 Capitol Square, Ground Floor
Columbus, OH 43215

The Honorable Niraj Antani
Vice Chair, Ohio Senate Health Committee
Ohio State Senate
1 Capitol Square, Ground Floor
Columbus, OH 43215

The Honorable Nickie J. Antonio
Ranking Member, Ohio Senate Health Committee
Ohio State Senate
1 Capitol Square, 2nd Floor
Columbus, OH 43215

RE: ATA SUPPORT FOR THE SENATE'S SUBSTITUTE FOR HOUSE BILL 122 AND SUGGESTED AMENDMENTS

Dear Chair Huffman, Vice Chair Antani, and Ranking Member Antonio:

On behalf of the American Telemedicine Association (ATA) and the over 400 organizations we represent, I am writing in support of the Senate's substitute for House Bill 122 while offering a few amendments.

The ATA is the only national organization completely focused on advancing telehealth, and we are committed to ensuring that everyone has access to safe, affordable, and high-quality health care whenever and wherever they need it. The practice of telehealth empowers the health care system to provide services to millions more patients every year in an efficient and efficacious manner. The ATA represents a broad and inclusive coalition of technology solution providers and payers, as well as partner organizations and alliances, working to advance industry adoption of telehealth, promote responsible policy, advocate for government and market normalization, and provide education and resources to help integrate virtual care into emerging, value-based modalities.

The Senate's substitute bill serves as an important and rational expansion of Ohio's state telehealth policy. The proposed legislation enables a wide variety of health care providers to use remote technology to treat patients in Ohio, establishes coverage parity for telehealth services provided to Ohio residents, and permits practitioners to use synchronous technologies, asynchronous technologies, and remote patient monitoring devices when delivering telehealth services.



The ATA supports the Senate’s substitute for several reasons. First, we applaud the legislature’s attempts to enable health care professionals from a range of medical fields to practice telehealth. In the context of the ongoing health crisis, it is essential that Ohio residents have access to the affordable, quality health care they need and deserve. By allowing a variety of providers, including physicians, psychologists, and pharmacists, to deliver care to their patients virtually, the legislature makes it significantly easier for Ohioans to access their much-needed health care services in a cost-effective and convenient manner.

Curiously, dentists and other oral health care professionals appear to be the only health care professionals excluded from this legislation and are therefore unable to leverage technological innovations to the benefit of Ohio patients through telehealth. The ATA believes that all providers should be able to utilize telehealth technologies consistent with their license and training, and we encourage the legislature to enable these providers to deliver care via the appropriate modalities.

Furthermore, the ATA commends the legislature’s efforts to mandate that insurance plans provide equal coverage for services provided via the appropriate telehealth technologies. Mandating that health insurance plans cover telehealth services to the same extent as in-person care would make it easier for Ohio residents to access quality health care without having to worry about the potential financial burdens associated with receiving that care. As far as the rate of reimbursement for telehealth services is concerned, the ATA maintains that state policymakers should set rational guidelines that are both fair to the provider of such services and reflect the cost savings offered to the health care system by the effective use of telehealth technologies.

The ATA also applauds the legislature for adopting a technology-neutral definition of telehealth. Across the United States, patients and consumers are utilizing telehealth technologies as an affordable and efficient means of accessing much-needed health care services. In addition, providers are utilizing remote patient monitoring technologies to push care out of the hospital, clinic, or doctor’s office and into the home, where providers can continually monitor, collect and analyze a patient’s physiologic data to create care management plans for patients, especially those with chronic conditions.

State policymakers should not decide which technologies are more appropriate than others in the delivery of telehealth services but should rely on the discretion of licensed health care professionals to determine which technologies are sufficient to meet the standard of care for the condition presented by the patient. Using the appropriate technologies eliminates barriers to health care access, especially for those who cannot always utilize the high-speed internet connections necessary to operate synchronous modalities. The use of telehealth technologies during the COVID-19 pandemic has provided additional evidence to demonstrate that, when used appropriately, these various modalities enable practitioners to deliver health care services within the standard of care without forcing patients to enter a potentially hazardous physical location.

Additionally, the ATA appreciates the legislature’s statement of intent in Sec. 4743.09 (G). The legislature clarifies that it hopes to expand access to and investment in telehealth with the passage of the Senate’s substitute and that no health care professional licensing board may promulgate rules which reduce Ohioan’s current levels of access to telehealth in the state or establish a separate standard of care for services provided via telehealth technologies as opposed to in person. The ATA shares this goal of



expanding access to high-quality, affordable health care for Ohioans and believes that this statement will ensure that the Senate's substitute will enable providers and patients to interact more efficiently and effectively for years to come.

While the ATA supports the legislature's efforts to expand access to telehealth services in Ohio, we would like to suggest several amendments to the language proposed in the Senate's substitute for House Bill 122.

First, we believe that the legislature should amend the definition of durable medical equipment in Sec. 4743.09 (A) (1) to exclude remote monitoring devices. No federal program considers remote patient monitoring equipment as durable medical equipment (DME). Defining remote monitoring devices as DME would create questions for providers. For example, would providers have to become licensed DME providers to offer remote patient monitoring devices for patients? On the other hand, every other state that requires coverage of remote patient monitoring within their state's telehealth statute has not defined RPM technology as DME. This added confusion could disincentivize providers from using RPM technologies and ultimately restrict providers from practicing within the scope of their licenses.

Secondly, the ATA recommends that the legislature clarify in Sec. 5119.368 (C) that a provider may use an online form to disclose the potential risks associated with receiving mental health treatment through telehealth services and permit an electronic affirmation by the patient.

Finally, our organization would like to see the legislature adopt an amendment in the Senate's substitute which would permit Ohioans to seek expert second opinions through any Ohio-licensed physician, not only their treating physicians. Although this may appear as a minor change, the current law only permits the patient's treating physician to consult with an out-of-state medical expert, which ultimately limits the patient's opportunity to access the advice of the nation's top medical experts regarding their diagnoses and treatment plans. The adoption of such an amendment would mean that Ohio residents could seek invaluable expert second opinions via telehealth services, which would lead to greater cost savings and, most importantly, better care for patients. We recommend amending Sec. 4731.36 (A)(3) by striking "~~who is responsible for the examination, diagnosis, and treatment of the patient who is the subject of the consultation.~~"

Again, we thank you for your support of telehealth in Ohio. We urge you and your colleagues to pass the Senate's substitute for House Bill 122 with the recommended amendments in the interest of expanding easy and efficient access to affordable, quality health care across the state. Please do not hesitate to let us know how we can be helpful in your efforts to advance common-sense telehealth policy in Ohio. If you have any questions or would like to discuss further the telehealth industry's perspective, please contact me at kzebley@americantelemed.org.



Kind regards,

A handwritten signature in black ink that reads "Kyle Zebley". The signature is fluid and cursive, with the first name being more prominent.

Kyle Zebley
Vice President of Public Policy
American Telemedicine Association