



November 16, 2020

The Honorable Robert Hackett
Ohio Senate
1 Capitol Square
Columbus, OH 43215

Re: Support HB 679 – Request Senate consideration to Support AM 3023-1 and Oppose AM 3334

Dear Chairman Hackett:

I am writing in support of HB 679 (Fraizer – Holmes) on behalf of Teladoc Health and to ask your support of AM 3023-1 as well as your opposition to AM 3334. Teladoc Health is transforming how people access and experience healthcare. Recognized as the world leader in virtual care, Teladoc Health directly delivers millions of medical visits across Ohio and throughout the United States and abroad each year through the Teladoc Health Medical Group and enables millions of patient and provider touchpoints for thousands of hospitals, health systems and physician practices globally. Ranked Best in KLAS for Virtual Care Platforms in 2020, Teladoc Health leverages more than a decade of expertise and real-time insights to meet the growing virtual care needs of consumers, healthcare professionals, employers and health plans.

As a leader in the telehealth industry we provided several suggested amendments in the House process which have been accepted into the legislation which is now before your committee. As referenced, Teladoc is in support of the As Passed by the House version of HB 679, but is seeking the Senate Insurance and Financial Institutions Committee's support of an additional amendment. We are requesting your consideration of AM 3023-1 which will permit second opinions from licensed physicians in good standing from another state. As you are aware a physician must be licensed in the state where the patient is at the time of the telehealth encounter unless a licensure waiver is granted for state or national emergency purposes. However, a physician can provide a professional second opinion to a patient as long as they are licensed and in good standing in their resident state, provided that the physician is not involved in the treatment of the patient in the state where they are not licensed. To be clear, this is not a reciprocity amendment, but focused solely on second opinion authority.

There were several questions raised during sponsor testimony at the first hearing of HB 679 in Senate Insurance Committee expressing a preference for allowing state agencies to pursue rulemaking on these important issues instead of the General Assembly setting telehealth laws through legislation. Although we understand that sentiment, we strongly urge you and your colleagues to advance HB 679 as it will provide needed clarity and establish baseline standards for telehealth in statute for health care professionals, insurers and patients. Statutory clarity is important for the telehealth industry due to many expedited changes due the COVID-19 pandemic, and the scope of practice rules at Ohio's licensing board may not fully address the current health care environment for telehealth. Additionally, Teladoc has witnessed burdensome and unnecessary regulatory hurdles pursued by overzealous regulators, which is why it's imperative that the legislature enact HB 679 to ensure Ohioans have safe and appropriate access to telehealth services.

A great example of a state agency pursuing overly burdensome regulation is AM 3334 which we became aware the State Medical Board of Ohio is circulating within the Ohio Senate. The Medical Board's amendment would place unnecessary restrictions on telehealth, create barriers to access to care, and would stymie innovation. In fact, the amendment would remove a provision in current law that permits a health care professional to provide telehealth services to a patient during an initial visit if the appropriate standard of care is met. In 2014, the Federation of State Medical Boards stated in their model policy that "technology can be used to establish a physician-patient relationship." Most recently, the Centers for Medicare and Medicaid Services (CMS) issued guidance during the pandemic that all forms of technology could be used with Medicare patients as long as the standard of care could be met. Policymakers and regulators are issuing these guidelines because they understand the positive impact that technology can have on expanding access to quality care; any attempts to restrict a physician's professional discretion in the use of telehealth should be met with great suspicion from lawmakers.

Additionally, the Medical Board's amendment is parochial and assumes that the patient must cede judgement to a physician as to whether a telehealth visit is appropriate by two measures: (1) the physician decides that telehealth is in the best interest of the patient in order "to avoid a significant compromise of the patient's health"; or (2) "because of the patient's lack of mobility." This is needlessly limiting. What about situations where a single mother is unable to bring a well child to the doctor's office with them because she has an upper respiratory infection? What about situations where a parent is unable to take an entire day off from work in order to be seen by a physician? The amendment does address a cross-coverage situation between physicians taking calls for one another, but cross-coverage has been and continues to be widely used even before the growing adoption of telehealth.

Moreover, the Medical Board's amendment provides for a narrow range of available technology and requires a video component with minimal exceptions essentially requiring a "fail first" video approach. With the exception of two states, all states have embraced a technology neutral approach which allows for patient choice and physician discretion regarding the type of technology that can be used. Good public policy dictates that everything should rest upon the standard of care; if the physician can meet the standard of care using the telephone, the virtual visit should proceed. If the patient needs to use electronic media and the standard of care can be met, then the visit should proceed. If with any technology, the physician believes that the standard of care can NOT be met, they have a professional obligation to either request a technology that is clinically appropriate or refer the patient to in person care.

In short, the Medical Board's amendment makes no sense and their overzealous regulation is quite simply proposing to restrict access to telehealth and impose unnecessary barriers with no clinical basis. The Medical Board's amendment does nothing to improve access to care or decrease health spending. The amendment does nothing to reduce unnecessary emergency room visits. In fact, at a time where health care costs are rising and access to quality health care is decreasing, telehealth is a tool to help patients, employers and the healthcare system employ efficiencies and provide access for all Ohioans in a safe and clinically appropriate manner. It has become very clear that the Medical Board's outlook on telehealth is antiquated and it is incumbent upon the General Assembly to set appropriate policy to ensure telehealth access for Ohio residents.

In summary, we applaud the tireless work of those advancing telehealth access for Ohioans. We urge the Senate Insurance Committee to *pass HB 679 after amending with AM 3023-1 second opinion language.*

Additionally, with the Medical Board's apparent bias against technology and innovation we strongly encourage the Senate Insurance Committee to *reject AM 3334*. Teladoc stands ready to assist your work with you and the members of the Ohio Senate Insurance and Financial Institutions committee.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Tucker', with a long horizontal flourish extending to the right.

Claudia Duck Tucker
Senior Vice President Government Affairs | Public Policy
Teladoc Health

cc: Members of the Ohio Senate Insurance and Financial Institutions Committee