Telehealth Licensure: Emerging State Models of Physician Licensure Flexibility for Telehealth

September 19th, 2023
Agenda

- Welcome
- Overview: Telehealth Licensure
- Deep Dive: State Approaches
- Panel Discussion
  - Sarvam TerKonda, MD, Federation of State Medical Boards (FSMB)
  - Marschall Smith, Interstate Medical Licensure Compact (IMLC)
  - Clark Barrineau, Medical Society of Virginia
### Overview: Telehealth Licensure

#### Historical Context
- **1791 Bill of Rights granted states the right to regulate health**
- **Size, structure, and authority of medical boards varies by state:**
  - Some are independent, while others are integrated into larger agencies (e.g., State Departments of Health)
  - Most consist of a combination of physicians and members of the public

#### COVID-19 Pandemic
To meet the increased demand for virtual care, states deployed a variety of approaches:
- **Licensure requirements were waived**
- **Broad reciprocity waivers** were implemented, which permitted physicians and other health professionals with an active license and in good standing in one state to provide care in another state without obtaining an in-state license
- **Telehealth-specific exceptions** were implemented, allowing out-of-state providers to deliver care in-state via telehealth without an in-state license

#### States’ Current Considerations
- **Nearly all states have lifted the temporary flexibilities** implemented during the COVID-19 pandemic
- **States are exploring new policies that seek to expand or streamline the state licensure process for physicians** while ensuring continued authority to regulate and oversee the practice of medicine
- **Nation-wide approaches and language continue to grow**
  - More than 35 states and territories are members of the IMLC
  - National organizations are developing model language to inspire and support states
Overview: Licensure Pathways

**Licensure for cross-state and telehealth services**

1. **Interstate compacts**
   - Creates an expedited licensure pathways for physicians to deliver either in-person or telehealth services in more than one state.

2. **Licensure by endorsement or reciprocity**
   - Provides an expedited pathway for physicians to obtain a full license in the endorsing state or state with reciprocity agreement based on a set of qualifying criteria.

3. **Special purpose telehealth registries or licenses**
   - Allows physicians who are licensed in other states to register or obtain a special license to deliver telehealth services to in-state residents.

4. **Exceptions to in-state licensure requirements**
   - Allows physicians who are licensed in other states to deliver services via telehealth (and in some cases in-person) to patients without an in-state license, under certain circumstances.

[AMA Manatt]
Deep Dive: State Approaches

Interstate Compacts

>35 states and territories are members of the IMLC

Licensure by Endorsement or Reciprocity

Virginia

Four key criteria are required for licensure by endorsement: (1) **hold a current licensure** in USA or Canada for the 5 years immediately preceding application; (2) **engaged in active practice** during that time; (3) verify all current licenses are in **good standing**; (4) hold a **certificate from one of a number of medical societies** (e.g., American Board of Medical Specialists).

VA also allows licensure by reciprocity for those licensed in Maryland or the District of Columbia.

Licensure by Endorsement or Reciprocity

Florida

Offers out-of-state registration for physicians and other health professionals licensed outside of Florida. Registrants cannot have an in-state physical address or provide in-person services in-state and must maintain liability coverage for telehealth services provided in-state.

Special Purpose Telehealth Registry or License

Arizona

A healthcare provider who is not licensed in AZ is eligible to provide telehealth services in the following circumstances:

- In response to an emergency
- In consultation with an AZ-based provider
- To provide after-care specifically related to a medical procedure that was delivered in-state
- To a person who is a resident of another state and the telehealth provider is the primary care provider or behavioral health provider located in AZ

Exceptions to In-State Licensure Requirements
AMA Perspective

AMA Policy

– **Support state-based licensure.** Physicians and other health care professionals must be licensed in the state where the patient is receiving care or as otherwise authorized by state law.

– Physicians and other health care professionals must **abide by state licensure laws** and the medical practice act in the state where the patient is located.

– **Support the Interstate Medical Licensure Compact.**

– **Support exemptions** to licensure for limited circumstances.

– Encourage states to facilitate **interstate telehealth for continuity of care** and to **preserve critical relationships** between patients and their regular physician.

AMA model state legislation