

Telehealth State/ Federal Updates

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WashingtonState
TelehealthCollaborative

State Updates

Alaska's Telemedicine Licensure Policy

- Alaska's [H.B. 265](#) signed into law on 7/14/2022 and is effective immediately with the following language:

A physician licensed in another state may provide health care services through telehealth to a patient located in the state as provided in this subsection, subject to the investigative and enforcement powers of the department under [AS 08.01.087](#), and subject to disciplinary action by the State Medical Board under [AS 08.64.333](#). The privilege to practice under this subsection extends only to:

- 1. Ongoing treatment or follow-up care related to health care services previously provided by the physician to the patient and applies only if:*
 - A. The physician and the patient have an established physician-patient relationship; and*
 - B. The physician has previously conducted an in-person visit with the patient; or*
- 2. A visit regarding a suspected or diagnosed life-threatening condition for which*
 - A. The patient has been referred to the physician licensed in another state by a physician licensed in this state and that referral has been documented by the referring physician; and*
 - B. The visit involves communication with the patient regarding diagnostic or treatment plan options or analysis of test results for the life-threatening condition*

State Updates

- The Center for Telehealth and e-Health Law (CTel) created a [50 State Public Health Emergency Survey](#), detailing which states have expired PHEs and which states have PHEs that may be expiring in the near future.
 - This survey will be updated on a weekly basis
 - 7 states and DC have active public health emergency orders: California, Illinois, West Virginia, New Mexico, North Carolina, Rhode Island, Washington, and Washington, D.C.
- The Washington Department of Health (DOH) launched more telehealth options to expand COVID-19 treatment access to uninsured patients.
 - Press article [here](#).
 - DOH announcement [here](#).
- Effective June 9, 2022, per the [H.B. 1708 Audio-Only Telemedicine Facility Fees](#), hospitals licensed under [Chapter 70.41 RCW](#) that serve as either an originating or distant site for audio-only telemedicine are prohibited from charging a facility fee to uninsured and self-paying patients.
- Beginning January 1, 2023, per the [H.B. 1821 Audio-Only Telemedicine Reimbursement – Definition of Established Relationship](#), providers seeking reimbursement for audio-only telemedicine services must establish a patient-provider relationship consistent with the newly modified “established relationship” definition.

H.B. 1821: Established Relationship Definition Modified

1. *Bifurcated Requirements for Behavioral Health and “Any Other Health Care Service”*

- Stakeholders urged that the definition distinguish between the two service types since behavioral health services do not always necessitate an in-person visit

2. *Audio-Visual Telemedicine Allowed for Establishing the Relationship*

- Supplements the in-person requirement with specific allowances:
 - For behavioral health services: Audio-visual telemedicine or an in-person visit may be used to establish the patient-provider relationship. This is a permanent change.
 - For any other health care service: Audio-visual telemedicine is temporarily allowed to satisfy the relationship for audio-only telemedicine during calendar year 2023 only. The allowance ends after CY 2023, which means the original in-person visit requirement will be the only method to establish the relationship and receive reimbursement.

3. *Relationship Duration Extended*

- For behavioral health services: The duration is extended from 1 year to 3 years.
- For any other health care service: The duration is extended from 1 year to 2 years.

4. *Medical Record Access Required*

- Requires all audio-only telemedicine providers to have “access to sufficient health records to ensure safe, effective and appropriate care services”

5. *More Practice Scenarios Satisfy the Established Relationship*

- H.B. 1821 expands the practice settings to include medical groups and integrated delivery systems operated by a carrier licensed under [Chapter 48.44 RCW](#) or [Chapter 48.46 RCW](#)

Federal Updates

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- CMS developed a [roadmap](#) for the eventual end of the Medicare PHE waivers and flexibilities, and is sharing information on what health care facilities and providers can do to prepare for future events.
 - CMS also released [fact sheets](#) that will help the health care sector transition to operations once the PHE ends, whenever that may occur. They summarize the current status of Medicare Blanket waivers and flexibilities by provider type as well as flexibilities applicable to the Medicaid community.
 - CMS article [here](#).
- On July 27, the U.S. House of Representatives passed the [H.R. 4040: Advancing Telehealth Beyond COVID-19 Act of 2022 bill](#) that extends telehealth benefits implemented during the COVID-19 pandemic.
 - The legislation would extend most of the PHE telehealth waivers through December 31, 2024.
 - Allows FQHCs and RHCs to furnish telehealth services under the Medicare program through December 31, 2024
 - Delays the 6-month in-person requirement under Medicare for mental health services furnished through telehealth through January 1, 2025
 - This bill will be sent to the U.S. Senate for their consideration
 - Bill text [here](#).
- On July 15, the Department of Health & Human Services extended the federal COVID-19 public health emergency (PHE) an additional 90 days through 10/13/2022.
 - Declaration of renewal [here](#) from Department of Health & Human Services
- On July 7, CMS published the [Proposed Medicare Physician Fee Schedule for Calendar Year 2023](#), including policies related to Medicare telehealth services – solicited public comment until Tuesday, September 6th
 - Implement the telehealth provisions in the Consolidated Appropriations Act (CAA) of 2022, which extends certain flexibilities in place during the PHE for 151 days after the PHE ends, including:
 - Allowing telehealth services to be furnished in any geographic area and in any originating site setting, including the patient's home;
 - Allowing certain services to be furnished via audio-only technologies
 - Delaying the 6-month in-person visit requirements for mental health services furnished via telehealth