



Expanding Florida's Use and Accessibility of Telehealth

October 31, 2017



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EXECUTIVE SUMMARY

Telehealth technology is currently being utilized to provide health care services nationally and in Florida. Telehealth technology can enable real-time communication between patients and health care practitioners (or between multiple practitioners) using live video conferencing; can securely store-and-forward clinical data to offsite locations for evaluation by health care practitioners; and can support [remote monitoring](#) of patients' conditions. The United States Department of Health and Human Services notes that telehealth is not a type of health care service; but is rather a means or method used to deliver health care services.ⁱ

[Chapter 2016-240](#), Laws of Florida, created the [Telehealth Advisory Council \(Council\)](#) to make recommendations about telehealth services in Florida to the Governor and Legislature by October 31, 2017. The law designated the Secretary of the Agency for Health Care Administration (Agency) as the Council Chair, and designated the State Surgeon General & Secretary of the Department of Health (Department) as a member. The Agency's Secretary and the Surgeon General appointed thirteen (13) Council members representing specific stakeholder groups.

This law also directed the Agency, the Department, and the Office of Insurance Regulation to survey licensed health care facilities, practitioners, health insurers, and Health Maintenance Organizations (HMOs); and to submit the [Florida Report on Telehealth Utilization and Accessibility Survey \(Survey\)](#) and research findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2016. The Survey's results highlighted several barriers to implementation including the lack of a clear definition, financial obstacles, interoperability concerns, and a lack of detailed knowledge about telehealth services.ⁱⁱ The Council's charge was to review the Survey and research findings and to develop this report of recommendations for the expansion of telehealth services in Florida.

Through surveys, research findings, formal testimony, and public comment, the Council has conducted an in-depth review of the current telehealth landscape in Florida. There are many successes from which to draw knowledge; there are also challenges that can be addressed. This report presents six (6) topic areas where there are current opportunities to support expansion of telehealth in our state: defining telehealth, health insurance coverage, reimbursement for telehealth, health care practitioner licensure, patient/consumer protections, and technology.

Key findings and recommendations of the Telehealth Advisory Council include:

- **Defining Telehealth** - A clear, consistent definition for telehealth and/or telemedicine is needed. The Council recommends the state establish a definition for telehealth, which should replace the various definitions currently used in any applicable state statute or rule. Specific guidelines and a proposed definition are included in the report.

Health Insurance - Coverage and reimbursement of services provided via telehealth influence its delivery and growth. The Council notes a clear distinction between health insurance [coverage parity](#) and [reimbursement parity](#) for services provided via telehealth.

- **Health Insurance Coverage** - Health care insurance coverage parity refers to health plans including benefits for services provided via telehealth to the same extent the plan covers the same services provided in-person, but is silent about payment. In order to increase access and use of telehealth, the Council recommends the Florida legislature require Florida-licensed health insurance plans provide coverage for healthcare services provided via telehealth, if coverage is available for the same service when provided in-person. The intent of this recommendation is not to limit insurers and practitioners from negotiating contractual coverage terms or entering into value-based payment programs.
- **Health Insurance Reimbursement** - Health care insurance reimbursement parity refers to health plans paying health care facilities and practitioners for covered services at an equivalent rate whether the service is provided using telehealth or in-person. In order to stimulate adoption of telehealth and increase access to care, the Council recommends the Florida legislature require Florida licensed health insurance plans (excluding Medicare plans) to provide reimbursement parity for covered healthcare services provided via telehealth. The intent of this recommendation is not to require insurers to add additional service lines or specialties, mandate fee-for-service arrangements, inhibit value based payment programs, or limit healthcare insurers and practitioners from negotiating contractual coverage terms.

The Council also recommends the Agency amend the Medicaid fee-for-service rule for telehealth to include coverage of [store-and-forward](#) and remote monitoring; and develop a model that would allow Medicaid Managed Care plans to incorporate telehealth offerings as a means to ensure provider network adequacy.

The Council encourages Florida to support modifications to Medicare telehealth guidelines that would expand coverage to additional modalities, practitioner types, and care settings.

- **Health Practitioner Licensure** - The responsibility to ensure patient protections and practitioner accountability lies within each state. To ensure the best possible care for Florida residents while maximizing access to care, the Council recommends health care practitioners be licensed in Florida prior to being allowed to provide care to a patient in Florida. The Council recommends the Florida Legislature enact laws to authorize participation in multi-state health care practitioner licensure compacts, when available and appropriate, only if the compact includes eligibility requirements for licensure that are equal to or more stringent than Florida's existing requirements.
- **Patient Protection** - The Council notes the importance of the patient-practitioner relationship in ensuring quality health care. The Council recommends the Florida Legislature recognize and allow the establishment of patient-practitioner relationships through telehealth; including for the purposes of prescribing and care coordination.
- **Technological Advances** - The Council notes that while technology-related limitations and costs have historically been barriers for practitioners interested in utilizing telehealth; those barriers will continue to decrease as technology evolves and market forces drive cost reductions.

The Council members would like to thank the Florida Legislature for the opportunity to study and provide insight on these issues; and look forward to continuing the great work that is already underway toward ensuring Floridians have access to the best possible health care. It is the hope of the Council that these recommendations provide a solid foundation for future telehealth development in our state.

BACKGROUND

[Chapter 2016-240](#), Laws of Florida, created the Telehealth Advisory Council (Council) to make recommendations to the Florida Governor and Legislature about telehealth. The law designated the Secretary of the Agency for Health Care Administration (Agency) as the Council Chair and the State Surgeon General (or designee) as a member. The Agency's Secretary and the Surgeon General were then directed to appoint thirteen Council members representing specific facility, practitioner, and stakeholder groups. The Council was charged to review survey and research findings and to employ that information to develop recommendations to increase the use and accessibility of services provided via telehealth in the state.

The law also directed the Agency, the Florida Department of Health, and the Florida Office of Insurance Regulation to survey health care facilities, licensed practitioners, insurance plans, and Health Maintenance Organizations (HMOs) regarding availability, utilization, and coverage of telehealth services in the state. The Agency was designated to compile the Survey and research findings; and to submit a report of those findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2016 (**Attachment 1**).

The Council is required to submit its report of recommendations to the Governor, Senate President, and the House Speaker by October 31, 2017. This Telehealth Advisory Council report of recommendations represents the members' findings from detailed discussions and deliberations during the course of ten (10) public [meetings](#) hosted in various regions of the state. The Council received input via formal presentations from approximately 30 individual practitioners, stakeholders, and national experts (**Attachment 2**), as well as numerous public comments, the Florida telehealth [Survey results](#), and national and state research compiled by members and Agency staff. All meeting information, including the speaker presentations, Survey results, and research materials, have been archived on a dedicated Council [website](#) for reference as needed. This report, when viewed in its electronic format, contains direct links to source information or meeting materials when appropriate.

INTRODUCTION

The United States, including Florida, is experiencing a shortage of health care practitioners to serve a growing and aging population. Data from the U.S. Health Resources and Services Administration (HRSA) Bureau of Health Workforce indicated there were 615 federally designated Health Professional Shortage Areas (HPSAs) within the state for primary care, dental care, and mental health therapists in June 2014. More recent data from the HRSA shows the number of HPSAs in Florida grew to 623 by December of 2016.ⁱⁱⁱ HRSA has projected a need for

3,060 additional primary care physicians in the state by 2025.^{iv} The existing and emerging deficits in the physician and health care workforce is a driver of innovation as the industry explores new strategies to extend the reach of existing health care practitioners.^v The adoption and use of telehealth technology is one strategy that is gaining momentum nationally to help address these workforce deficiencies.

The United States Department of Health and Human Services notes that telehealth is not a type of health care service; it is a means or method used to deliver health care.^{vi} The [standard of care](#) for providing health services should not change based on the mode of delivery.^{vii}

Telehealth services can enable real-time ([synchronous modality](#)) communication between patients and health care practitioners through video conferencing; facilitate the storage and forwarding ([asynchronous modality](#)) of clinical data to offsite locations for evaluation by health care practitioner teams; and support remote monitoring of patient's conditions via sensors and monitoring devices. Telehealth technology is evolving into wearable and implantable devices that detect information such as EKG readings.^{viii} While these technologies offer promising solutions, the adoption and expansion of telehealth also presents specific challenges to facilities, practitioners, payers, and other health care stakeholders. The intent of this report is to address the specific challenges the Florida Report on Telehealth Utilization and Accessibility identified and through stakeholder testimony and research provided to the Council. The report presents six (6) specific areas with identifiable obstacles for the expansion of telehealth: the definition of telehealth, health insurance coverage, reimbursement for telehealth, health practitioner licensure, patient/consumer protection, and technology.

The information presented to and reviewed by the Council demonstrates clear benefits from utilizing telehealth technology and the provision of virtual health services. There remain significant opportunities to increase access and enhance the quality of services provided to vulnerable populations, especially in isolated communities, both rural and urban.^{ix}

DEFINING TELEHEALTH

The Council heard testimony from numerous stakeholders on a broad array of telehealth applications. The value and utility of telehealth crosses most health service disciplines including but not limited to primary medical care, specialty care, disease management, behavioral health, physical and occupational therapies, speech therapy, pharmacy, and home health.

The American Telemedicine Association uses the terms telemedicine and telehealth interchangeably. The United States Department of Health and Human Services uses the term telemedicine as a specific reference to the practice of medicine and telehealth as an

encompassing term inclusive of the broader scope of health care.^x Experts and stakeholders expressed the need for a clear definition of telehealth.^{xi} Health care practitioners indicated the need for a definition that will clarify the use of technological modalities as an acceptable way to treat patients within their [scope of practice](#). Health plans noted the need for clarity in the allowable modes of telehealth for coverage and reimbursement purposes.

RECOMMENDATION(S):

There are several definitions for “telemedicine” in Florida regulations, but none for “telehealth”. Although the terms telemedicine and telehealth are commonly used interchangeably, the term telehealth denotes the depth and range of the uses and modalities. The Council determined the need for a broad definition of telehealth in order to provide clarity on acceptable uses of current technology for treating patients, without becoming a barrier to technological innovations in the future.

To ensure clarity, the Council recommends that a definition of telehealth should be included in statute and inclusive of six (6) key components:

1. Telehealth can be used for providing health care and public health services.
2. Telehealth includes [synchronous](#) and [asynchronous](#) transmission modalities.
3. Practitioners treating Florida patients must be appropriately licensed in Florida or appropriately supervised by a licensed Florida health care practitioner as prescribed by law or rule.
4. Health care practitioners must act within the scope of their practice.
5. Telehealth can be between health care practitioners or health care practitioners and patients.
6. There must be no limitations on geographic location or place of service.

The Council offers the following language as a definition of telehealth and replacement for existing telehealth and telemedicine definitions in Florida statutes and rules:

TELEHEALTH FOR EMERGENCY PREPAREDNESS AND DISASTER RELIEF

Telehealth received national attention for its use in assisting patients in Texas and Florida after the devastating damage from Hurricanes Harvey and Irma respectively. Direct to patient telehealth vendors and hospitals waived costs and expanded the services they offer via telehealth in order to ensure patients received needed care before, during, and after the storms. Florida Hospital and Nemours Children’s Hospital are examples of two hospital systems offering free care via telehealth during Hurricane Irma in Florida. Both of these hospital systems saw a significant increase in telehealth usage from September 8 – 10. Nemours indicates an 800% increase in telehealth volume during this time.*

*Miller, N. [Telemedicine Interest Spikes During Hurricane Irma](#). Orlando Sentinel. Sep. 27. 17.

Telehealth is defined as the mode of providing health care and public health services through synchronous and asynchronous information and communication technology by a Florida licensed health care practitioner, within the scope of his or her practice, who is located at a site other than the site where a recipient (patient or licensed health care practitioner) is located.

HEALTH INSURANCE AND TELEHEALTH

Florida health care facilities and practitioners identify issues surrounding coverage and reimbursement as primary policy barriers influencing the delivery and growth of telehealth services. Health care facilities and practitioners have reported through surveys and testimony to the Council a lack of adequate coverage and reimbursement for health care services provided using telehealth technologies. Of practitioners surveyed, 59% of those using telehealth identified lack of health insurance reimbursement as a barrier to using telehealth. In addition, 63% of practitioners that stopped offering telehealth services identified lack of health insurance reimbursement as a barrier. Health care facilities also ranked lack of insurance reimbursement as the greatest barrier to using telehealth.^{xii} Some stakeholders have expressed hesitancy to invest in telehealth programs, citing that without some assurance regarding reimbursement they are unable to determine a positive Return-On-Investment (ROI).^{xiii} Confirming these reports from health care practitioners, outside of Medicaid, a majority of Florida's licensed health insurers indicated in their response to the state's Survey they offer only extremely limited coverage, if any coverage, for telehealth services.^{xiv}

There is a national paradigm shift among private and public payers toward quality and performance-based payment models, which serves as a driver to increase telehealth utilization. These value-based payment arrangements incentivize health care practitioners to achieve the triple aim of increasing access to health care services for all persons, providing the highest possible quality of care, and minimizing costs. The integration of telehealth modalities into health care practitioner workflows can strongly support practitioners in meeting these goals.

Executive leaders from the [American Telemedicine Association](#) and the federally funded national telehealth policy resource center, the [Center for Connected Health Policy](#), presented information to the Council during April 2017. As of September 2017, both organizations' websites indicate thirty-four (34) states and the District of Columbia have established health insurance [coverage parity](#) laws to address gaps in coverage for telehealth services.^{xv} The laws implemented in these states have some common features, but vary in details from state to state. Some states limit coverage and reimbursement based on modality and/or location. According to a report published in August from the Center for Connected Health Policy, only

three (3) of the states with telehealth coverage parity laws explicitly mandate [reimbursement parity](#).^{xvi}

The Council members have emphasized the importance of establishing a clear distinction between telehealth insurance *coverage parity* and *reimbursement parity*. Telehealth coverage parity refers to a requirement of health plans to include benefits for services provided via telehealth, when possible and appropriate, to the same extent the plan covers the same services provided in-person. Coverage parity is silent regarding the amount of payment for telehealth services. Telehealth reimbursement parity refers to a requirement that health plans pay health care facilities and practitioners for covered telehealth services at an equivalent rate as the in-person reimbursement for the same service.

Policies governing the nation's primary public health care programs, Medicare and Medicaid, also play a key role in shaping Florida's telehealth landscape. These Federal programs strongly influence how states are able to serve senior and vulnerable populations, including patients who are dually eligible for both Medicare and Medicaid. There are efforts underway among members of Congress to modify current Medicare payment guidelines to support the expanded use of telehealth services nationally. States, including Florida, have flexibility to develop policy for their Medicaid programs and enjoy full authority to establish guidelines for coverage of employees through state employee group health insurance programs, worker's compensation, and similar state-sponsored programs.

Coverage of telehealth services, whether voluntary or required, has also led to new discussions around network adequacy requirements among health insurers and their stakeholders. The National Association of Insurance Commissioners (NAIC) has developed a [Managed Care Network Adequacy Model Act](#) as a guide for state lawmakers for evaluating insurers' provider networks. This model includes potential uses for telehealth in meeting a state's network adequacy requirements. If adopted, these measures offer a valuable benefit and incentive for health plans to cover telehealth services.

TELEHEALTH INSURANCE COVERAGE

Many health care facilities and licensed health practitioners have implemented successful telehealth programs and have reported benefits in terms of cost savings, quality outcomes, and customer satisfaction. Others have been more reluctant to move toward the use of innovative technologies without stronger assurance that a return on their investment is achievable. To provide such assurance, some states are implementing laws requiring insurers to cover health services offered through telehealth when possible and appropriate, known as [coverage parity](#).

Coverage parity for telehealth services does not require health plans to provide any new service lines or specialties, and is intended to ensure patients have options for how they may interact with health care practitioners, including in-person or virtually.^{xvii}

RECOMMENDATION(S):

In order to increase access and use of telehealth in Florida, there must be an increase in health care practitioners offering services via telehealth. The limited or lack of coverage for telehealth service stifles the expansion of the use of this modality to treat patients. The Council recommends that the Florida legislature require Florida-licensed health insurance plans (excluding Medicare plans) provide *coverage* for health care services provided via telehealth if coverage is available for the same service when provided in-person.

The Council offers the following language for inclusion in Florida statutes:

*A health insurance policy issued, amended, or renewed on or after July 1, 2018, shall provide coverage for services (excluding Medicare plans) provided via telehealth to the same extent the services are covered if provided in-person. An insurer shall not impose any additional conditions for coverage of services provided via telehealth.**

* The intent of this recommendation is to ensure appropriate insurance coverage for the use of telehealth in treating patients. Any legislative language developed should not require insurers to add additional service lines or specialties, mandate a fee-for-service arrangement, inhibit value-based payment programs, or limit health care insurers and practitioners from negotiating contractual coverage terms.

TELEHEALTH INSURANCE REIMBURSEMENT

Telehealth *reimbursement parity* is the requirement of health plans to pay health care practitioners and facilities for covered telehealth services at an equivalent rate as the in-person reimbursement for the same service.^{xviii} The Council received input from health care practitioners, health care facilities, payers, and stakeholders through research findings, survey data, and direct testimony regarding reimbursement for telehealth services. Reimbursement parity is a complex issue that must be considered from a variety of perspectives. Practitioners, for example, contend adequate funding of telehealth through reimbursement parity will serve to stimulate adoption of telehealth, which would increase access to care and reduce overall health care spending over time. Conversely, some payers and researchers predict that enhanced access through telehealth will increase utilization, which would result in increased

spending under traditional fee-for-service payment models. Others suggest a time-limited requirement for reimbursement parity would stimulate telehealth use until value-based payment models are fully established to support telehealth as a quality enhancement and cost reduction strategy. State policymakers may also consider whether [reimbursement parity](#) adversely affects individual practitioners' ability to competitively promote their telehealth programs to payers and other stakeholders separately from their in-person services.

The Council recognizes that the current and evolving national paradigm shift toward quality and performance-based health care payment models has significant potential to drive greater market use of telehealth. The U.S. Centers for Medicare and Medicaid Services (CMS) is a primary driver of health care policy nationally and has launched a variety of [value-based programs](#) over recent years designed to reward health care practitioners for more favorable outcomes and restrict reimbursement for services resulting in less favorable outcomes and/or higher costs. Those CMS programs include:

- Hospital Value-Based Purchasing Program (HVBP)
- Hospital Readmission Reduction Program (HRR)
- Value Modifier Program (aka: Physician Value-Based Modifier or PVBM)
- Hospital Acquired Conditions Program (HAC)
- End-Stage Renal Disease Quality Initiative Program (ESRD)
- Skilled Nursing Facility Value-Based Program (SNFVBP)
- Home Health Value-Based Program (HHVBP)

An increasing number of health plans have adopted similar strategies to contain costs and improve care outcomes among their provider networks. Council members acknowledge that planning and implementation of integrated telehealth strategies can assist practitioners in meeting the goals of value-based payment methodologies.

TELE-ICU SAVING LIVES AND COSTS

Baptist Health South Florida is using telehealth in their Intensive Care Units (tele-ICU) to save patient lives and decrease care costs. Tele-ICU allows a physician to monitor several patients in these units at one time, 24 hours a day, seven days a week. Physicians visit with the patient via a video monitor on a regular basis, but can also visit any time there is an indicator something may be wrong. Baptist Health South Florida notes they have seen significant positive outcomes. Data over the past three years indicates decreased mortality due to tele-ICU as well as achieved savings of \$49,721,400 in cost avoidance by reducing the number of days a patient needed ICU care.*

*Data provided by Baptist Health South Florida

RECOMMENDATION(S):

In order to stimulate adoption of telehealth and increase access to care, the Council recommends the Florida legislature require Florida licensed health insurance plans (excluding Medicare plans) to provide [reimbursement parity](#) for covered health care services provided via telehealth.

The Council offers the following language for inclusion in Florida statutes:

*For the purposes of health insurance payment (excluding Medicare plans), payment rates for services provided via telehealth shall be equivalent to the rates for comparable services provided via in-person consultation or contact contained in the participation agreement between the insurer and the health care practitioner.**

*The intent of this recommendation is to ensure appropriate insurance reimbursement for the use of telehealth in treating patients. Any legislative language developed should not require insurers to add additional service lines or specialties, mandate fee-for-service arrangements, inhibit value-based payment programs, limit health care insurers and practitioners from negotiating contractual coverage terms, or require insurers to pay for facsimiles or audio only communication.

MEDICARE

Although Medicare is a federal program, Medicare laws and regulations often influence how states are able to serve vulnerable populations, including patients who are dually eligible under both the Medicare and Medicaid programs. There are many caveats governing telehealth coverage under current Medicare payment guidelines, including strict requirements for the geographic location and care setting of patients and limitations to specific technological modalities. The United States Congress is currently considering several bills that would expand or modify Medicare telehealth policy. One example is the [Medicare Telehealth Parity Act](#), a bipartisan effort that would incrementally expand Medicare coverage for telehealth to include allied health care practitioners such as physical therapists, occupational therapists, audiologists, speech-language pathologists, and others, would allow a wider variety of telehealth modalities to be covered and would expand the list of qualifying geographic locations.^{xix} The Council finds the current Medicare policies related to telehealth coverage and reimbursement to be a significant limiting factor to growth and innovation, and supports congressional efforts to expand coverage and reimbursement of telehealth by Medicare.

RECOMMENDATION(S):

The Council recommends the State of Florida support modifications to Medicare telehealth laws that would expand coverage to include [store-and-forward modalities](#) as well as [remote patient monitoring](#), expand the types of health care practitioners covered, and revise or eliminate the existing geographic and place of service requirements.

MEDICAID

The Florida Medicaid fee-for-service rules were updated in June 2016 to expand the availability of telehealth reimbursement to a broader array of licensed health care practitioners and settings. This Medicaid rule limits fee-for-service coverage to live video conferencing and pays only the practitioner that provides the diagnosis and management.^{xx} The vast majority of Florida Medicaid beneficiaries, however, are enrolled in managed care. Florida's Medicaid Managed Care plans are authorized to cover telehealth services, although there is no state mandate for coverage. Based on Survey responses from Florida licensed health plans and HMOs, coverage for telehealth is currently greatest among Florida Medicaid Managed Care Plans and Affordable Care Act Exchange Plans.^{xxi} The Council members and multiple stakeholders acknowledged Florida Medicaid for its support of the expanded use of telehealth within the Statewide Medicaid Managed Care program, as well as its continued efforts to modify administrative rules governing the Medicaid Fee-for-Service program to support the use of telehealth.

RECOMMENDATION(S):

The Council recommends the Agency modify the Medicaid telehealth fee-for-service rule to include coverage of *store-and-forward* and *remote patient monitoring* modalities in addition to the currently reimbursed live video conferencing modality.

INSURANCE NETWORK ADEQUACY

The National Association of Insurance Commissioners (NAIC) defines network adequacy as “a health plan’s ability to deliver the benefits promised by providing reasonable access to a sufficient number of in-network primary care and specialty physicians, as well as all health care services included under the terms of the contract.” Network adequacy minimum requirements are established to ensure consumers have access to needed care without unreasonable delay. In Florida, network adequacy is required for Medicaid Managed Care and Children Health Insurance Program plans.

The NAIC has developed a [Health Benefit Plan Network Access and Adequacy Model Act](#) for use by states in developing laws around this issue. The model includes provisions allowing health care practitioners who offer services via telehealth to be included in the plan network for purposes of network adequacy.^{xxii} At the time of this report, Colorado is the only state allowing insurers to count available telehealth services in meeting network adequacy requirements for certain specialties.^{xxiii}

RECOMMENDATION(S):

The Council recommends the Agency develop a model that would allow Medicaid Managed Care plans to utilize telehealth for the purpose of meeting network adequacy.

HEALTH PRACTITIONER LICENSURE AND TELEHEALTH

Each state bears the responsibility for assuring patient protections and practitioner accountability. In order to ensure adequate protections and enforcement, Florida's practitioners, stakeholders, and payers provided strong testimony to the Council encouraging a requirement that all health care practitioners providing care to Florida residents using telehealth be licensed in Florida, regardless of where the health practitioner is physically located.

INTERSTATE LICENSURE

To ensure patient protection and health care practitioner accountability, the Council recommends practitioners be licensed in the state in which the patient resides. The Council acknowledges time and expense burdens associated with attaining licensure in multiple states as a potential barrier to expanding health care practitioners' use of telehealth. One solution to address this challenge is through the establishment of interstate licensure compacts. Nine (9) licensed health care professions currently have or are developing interstate compacts involving multiple states (**Attachment 3**).^{xxiv}

Licensure compacts are established when a specified number of states enact the same legislation, intended to streamline administrative processes without undercutting the specific licensure requirements of any participating state. It is important to note that compacts may actually increase the eligibility requirements for licensure in some cases. Practitioner participation in a compact is voluntary, and each state maintains jurisdiction over all practitioners providing care to patients within its borders. Compact provisions and

requirements vary from profession to profession. The Federation of State Medical Boards' (FSMB) [Interstate Medical Licensure Compact](#) creates an expedited process for eligible physicians to apply for licensure in compact states.^{xxv} The [Nurse Licensure Compact](#) creates a multi-state license, where all compact participating states recognize the license.^{xxvi} Florida's current licensure compact for nursing was adopted by the Florida legislature in 2016. Although, different in implementation, the intent is to provide a less onerous process for practitioners seeking licenses in multiple states while maintaining the high standards of Florida licensure.

RECOMMENDATION(S):

In order to ensure the best care for Florida patients and maximize available resources and access to care, the Council recommends the following:

1. Maintain the requirement of Florida licensure for health practitioners providing patient care in Florida via telehealth. This recommendation requires no change to current regulations and does not inhibit the use of telehealth to treat patients.
2. The legislature adopt laws allowing participation in health care practitioner licensure compacts that have licensure requirements that are equivalent to or more stringent than Florida.

TELEHEALTH STANDARDS OF CARE

It is imperative that Florida licensed practitioners understand and comply with established standards of care whether treating patients in person or through telehealth. The Florida Department of Health (Department), which is responsible for the licensure and regulation of the more than 800,000 health practitioners in the state, provided information to the Council clarifying that current law does not preclude Florida licensed practitioners from using telehealth within their authorized scope of practice and established standards of care. The Department is working to increase awareness and education among licensed health practitioners regarding their ability to the use of telehealth within their practice standards. The Department recognizes telehealth as a modality for providing health services and not a separate form of practice.

A number of stakeholders, primarily allied health care practitioners (i.e. Physical Therapists, Occupational Therapists, Audiologists, Speech-Language Pathologists, etc.), indicated a need for clarification as to whether they can or cannot use telehealth in their practices without additional statutory or regulatory authority.^{xxvii} Other stakeholders deemed the use of the general standard of care provisions in rule as sufficient for practitioner oversight.

To clarify this issue, the following language is now posted on all Department board and council webpages:

The use of telehealth technology by Florida licensed healthcare practitioners for the purpose of providing patient care within the state of Florida is not precluded by Florida law. Telehealth technologies may be employed for patient care as long as such technologies are used in a manner that is consistent with the standard of care.

The Florida legislature has granted regulatory boards, or the department where there is no board, broad rule making authority. Generally speaking, the telehealth standard of care is the same as the in-person standard of care. If individual boards determine a need for rules related to standards of care for providing services via telehealth, each board can pursue the issue specifically through its rule making authority.

RECOMMENDATION(S):

The Council acknowledges Florida's current standards of care as sufficient for general regulatory oversight of patient care; and recognizes that each health care regulatory board, and the Department when there is no board, has direct authority for establishing appropriate standards based on knowledge and insight for their respective practitioners.

To ensure clarity for Florida licensed health care practitioners and stakeholders regarding the ability to use telehealth as a modality of care, the Council recommends the Department, healthcare regulatory boards and councils continue to educate and raise awareness among licensees that they may use telehealth modalities to serve patients.

PATIENT/CONSUMER PROTECTION

Health care practitioners' responsibilities to patients are the same regardless which modality of care is used. Patients should have confidence that the care they receive, whether delivered in-person or through telehealth will be the same.

Health care practitioners and stakeholders have a responsibility to manage risks related to fraud and abuse in the delivery of health care services. There is no known evidence suggesting a higher risk of abuse or fraud involving telehealth over any other modality of care delivery. A practitioner may be audited for billed services regardless of modality of care.

PATIENT-PRACTITIONER RELATIONSHIPS & CONTINUITY OF CARE

Patient-practitioner relationships are key to improved health care. According to the American Medical Association, all states recognize the ability for a patient-physician relationship to be established via telehealth, with varying laws.^{xxviii} The Florida Boards of Medicine and Osteopathic Medicine regulations support the ability of physicians to establish a patient-physician relationship through telehealth.^{xxix} This is significant for patients living in isolated communities or with mobility issues who face challenges in establishing and maintaining a relationship with a health care practitioner through in-person visits. The use of telehealth expands the ability for patients and practitioners to establish and facilitate regular visits and follow-up care. Telehealth, in some instances, can assist practitioners in discovering new insights about patients by allowing them to observe and interact with patients in the home setting.

The use of telehealth, however, does not diminish issues related to coordination of care among multiple practitioners. Ideally, when a patient receives care, information is integrated into coordinated Electronic Health Records (EHRs) or similar systems and made available to other practitioners providing treatments or services to the patient. There is some concern among practitioners and payers regarding the potential for care fragmentation or service duplication when patients seek or receive care outside of established provider networks and their medical home. There are, however, federal and state initiatives to assist in sharing of patient health information, such as the Florida Health Information Exchange and Medicaid Electronic Health Record Incentive Programs.^{xxx}

RECOMMENDATION(S):

The Council recommends the Florida legislature recognize the ability for practitioners and patients to establish a relationship through telehealth in addition to encourage efforts for ensuring patient care coordination among treating practitioners.

The Council offers the following language for inclusion in Florida statutes:

A health care practitioner-patient relationship may be established through telehealth.

PATIENT CONSENT

Prior to providing health care services, practitioners are required to ensure patients (or legal proxies) are aware of the specific benefits, risks, and alternative courses of action they may

take for their care; and must receive and document patient consent. This is typically achieved through an informed consent. In the case of telehealth, it may be particularly beneficial for patients to know the potential risks, and to understand that a condition or treatment may require a practitioner to defer to in-person services. Section [766.103](#), Florida Statutes, governs the provision of medical consent for treatment and is applicable regardless of the care delivery modality.

RECOMMENDATION(S):

The Council recommends maintaining current consent laws in Florida. The Council notes that additional consent requirements will add unnecessary barriers for both practitioners and patients attempting to utilize telehealth services.

TELEHEALTH & PRESCRIBING

Many medical conditions and procedures require prescription medications as a component of the treatment plan. Both federal and state laws govern appropriate prescribing, in particular the prescribing of [controlled substances](#). The [Ryan Haight Online Pharmacy Consumer Protection Act \(Ryan Haight Act\)](#) is a federal law that provides guidelines for the prescribing of controlled substances through the internet. This federal regulation prohibits the prescribing of a controlled substance based solely on answering a questionnaire. The Ryan Haight Act affirmatively recognizes telehealth as a viable means of creating a practitioner-patient relationship, when specified standards are met, for the purpose of prescribing controlled substances.^{xxxii}

In Florida, medical doctors (allopathic and osteopathic), dentists, podiatrists, and some advanced registered nurses and physician assistants can prescribe controlled substances. Section [456.42](#), Florida Statutes, provides requirements for prescribing of controlled substances. The Florida Medical Boards' rules on telehealth, additionally prohibit the prescribing of controlled substances without an in-person visit – with the limited exceptions of treating of psychiatric disorders in an outpatient setting, treating patients in a licensed health care facility, and treating patients in an emergency medical situation.^{xxxiii} These rules also specify requirements needed to ensure a complete record for any prescriptions. [Scope of practice](#) laws provide additional limitations for prescribing controlled substances when delivering care.

RECOMMENDATION(S)

The Council recommends the Florida legislature recognize the establishment of practitioner-patient relationships through telehealth as appropriate for treating patients, including the prescribing of medications, with limited exceptions for prescribing of controlled substances.

The Council offers the following language for inclusion in Florida statutes:

Health care practitioners, authorized by law, may prescribe medications via telehealth to treat a patient as is deemed appropriate to meet the [standard of care](#) established by his or her respective health care regulatory board or council. The prescribing of [controlled substances](#) through telehealth should be limited to the treatment of psychiatric disorders and emergency medical services. This should not prohibit an authorized, health care practitioner from ordering a controlled substance for an inpatient at a facility licensed under chapter [395](#), Florida Statute or a patient of a hospice licensed under chapter [400](#), Florida Statute.

TECHNOLOGY

Telehealth is an increasingly accessible tool for both practitioners and patients due to innovation in the current health care technology market. Health care practitioners have noted some remaining technological barriers to effective telehealth implementations.^{xxxiii} Primary examples include limited access to technology and internet connectivity in isolated communities, equipment costs, and challenges related to interoperability with other health care systems.

TECHNOLOGY AND PATIENT ACCESS

ALLIED HEALTH PRACTITIONERS USE TELEHEALTH TO EXPAND REACH

Allied health practitioners in Florida including physical therapists, audiologists, and speech-language pathologists are discovering the benefits of using telehealth to provide services to their patients. Physical therapists are using telehealth to help in the rehabilitation of veterans. Tele-rehabilitation has been shown to provide more rehabilitation sessions to veterans in rural communities resulting in significant patient function improvement, and unanimous satisfaction by participants.* Audiologists use telehealth for assessment, education, cochlear implant and hearing aid programming, rehabilitation, and neurosurgical monitoring. Speech-Language Pathologists attribute successes in working with children at schools to the flexibility telehealth provides. They also note the significant role telehealth plays in the rehabilitation of stroke patients both at home and in long-term care facilities. Allied health practitioners tout telehealth for improving access, reducing travel fatigue in frail patients, and assisting with care coordination.**

*Levy, C, MD, Silverman, E, PhD, Jin, H, PhD, Geiss, M, MS, Omura, D, DFT, MHA. Effects of Physical Therapy Delivery via Home Video Tele-rehabilitation on Functional and Health-Related Quality of Life Outcomes. JRRD. Vol. 52. Nov. 2016. P 361-370

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Many health services can be provided virtually through mobile devices such as smartphones. A vast majority of the United States population now has a cellphone, including 92% of adults with an income of less than \$30,000 a year. Approximately ten percent of American adults are “smartphone-only” internet users – meaning they own a smartphone and do not have traditional broadband service at home.^{xxxiv}

The Florida Public Service Commission operates and administers the federal [LIFELINE](#) program in Florida, which provides free or discounted mobile phones (including smartphones) to individuals who are eligible and enrolled in certain social services programs.^{xxxv} Several of Florida’s Medicaid Managed Care plans promote LIFELINE services to their members in order to support health care management through access to internet-based services.

Florida has been very successful in implementing broadband connections throughout the state and is considered one of the top ten (10) “most connected states” by [Broadband Now](#), a national organization that compiles data from the Federal Communications Commission (FCC), the U.S. Census Bureau, broadband providers, resellers, IP-verified customers and other sources. Currently, over 97% of Floridians have access to wireline services and 100% have access to high-speed mobile service. High-speed connectivity allows individuals to access the internet from their mobile devices. A small segment of the population in Florida, about 600,000 individuals, have access to the internet through mobile devices.^{xxxvi} Telephone and data service providers, however, typically set limits on the amount of data a user can consume. These limits can inhibit some individuals from using their devices to receive health services via telehealth due to the additional costs imposed by telephone and data service providers for exceeding data limits.

TECHNOLOGY AND HEALTH CARE FACILITIES/PRACTITIONERS

Florida health care practitioners and facilities specifically identified the cost of equipment needed to treat patients using telehealth as a barrier.^{xxxvii} The growing telehealth and technology markets indicate ongoing reductions in cost. Additionally, research and stakeholder input suggests that telehealth technology is available at varying price points.^{xxxviii} The Council recognizes value-based purchasing initiatives and [reimbursement parity](#) as potential strategies to address return on investment (ROI) for initial costs. Federal grant funding programs are available to support the implementation of telehealth programs. Information about the availability of funding and resources to assist practitioners is available through the federally funded Regional Telehealth Resource Centers. The [Southeastern Telehealth Resource Center](#) provides resources and guidance to practitioners in Florida for implementing and expanding telehealth services.^{xxxix}

A bipartisan focus group conducted by [Health Affairs](#) and the national [Bipartisan Policy Center](#) identified the lack of interoperability between electronic health record systems and medical devices as a barrier to telehealth expansion.^{xi} Florida health care facilities also indicated through Survey responses that a lack of interoperability between practitioners is a barrier to development and implementation of telehealth programs. The challenges related to interoperability between health care practitioners' data systems, include a lack of interoperability between telehealth technologies and integration into electronic health record (EHR) platforms.^{xii} Technology vendors and health care organizations are working to improve systems' interoperability through implementations that support data exchange, such as the national [eHealthExchange](#) and [Carequality](#). The eHealthExchange is a growing network of exchange partners, health information organizations and federal agencies such as the Veteran's Administration and Social Security Administration Disability Determination that securely share clinical information using a standardized approach. Carequality is advancing EHR interoperability by brokering agreements among health information technology vendors to implement a framework for point-to-point health information exchange. In Florida, the Agency provides governance for the statewide Health Information Exchange (HIE) program, which promotes interoperability and offers services that allow sharing of patient information between health care practitioners when needed.

RECOMMENDATION(S):

The Council notes that technology-related barriers for practitioners will decrease as technological advances and market forces drive cost reductions. Barriers remain related to interoperability of health care information systems. The Council recommends:

1. The Agency identify existing resources for health information exchange to expand interoperability between telehealth technologies and integration into electronic health record (EHR) platforms.
2. The Agency continue promotion of existing programs and services available to increase access to technology, access to broadband networks, and improved interoperability.
3. Medical schools, schools of allied health practitioners, and health care associations provide information and educational opportunities related to the utilization to telehealth for serving patients.

CONCLUSION

The Council heard testimony from almost 100 individuals representing a full spectrum of stakeholders and reviewed hundreds of articles, studies, and reports. The information obtained

from stakeholders and documentation supports the benefits of expanding the use of telehealth for serving patients. The information provided also supports the need for policy modifications to remove barriers for expanding telehealth use. The Council's recommendations found in this report are viable solutions to overcoming identified barriers for telehealth expansion and access.

GLOSSARY OF TERMS

Asynchronous Modality (store-and-forward): Transmission of recorded health history (for example, pre-recorded videos and digital images such as X-rays and photos) through a secure electronic communications system to a practitioner who uses the information to evaluate the case or render a service outside of a real-time or live interaction.

Controlled Substances: A drug or chemical whose manufacture, possession, or use is regulated by the Drug Enforcement Agency based upon its potential for dependency or abuse.

Coverage Parity: A requirement of health plans to include benefits for services provided via telehealth to the same extent the plan covers the same services provided in-person.

Reimbursement Parity: A requirement of health plans to pay healthcare facilities and practitioners for covered services at an equivalent rate whether the service is provided using telehealth or in-person.

Remote Patient Monitoring: Personal health and medical data collection from an individual in one location via electronic communication technologies, which is transmitted to a provider in a different location for use in care and related support.

Scope of Practice: The range of responsibility, extent, and limits of the medical interventions that a health care practitioner may perform.

Standard of Care: The degree of prudence and competence in performing medical tasks accepted as reasonable, and reflective of a skilled and diligent health care practitioner.

Synchronous Modality: Live two-way interaction between a person and a practitioner using audio-visual tele-communication technology.

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