

Advancing California's Leadership in Telehealth Policy

A Telehealth Model Statute & Other Policy Recommendations

Executive Summary

In 1996, California passed one of the first telemedicine laws in the country, the Telemedicine Development Act of 1996 (TDA). At its passage, the TDA propelled California into a position of national leadership on telemedicine policy, giving credence to telemedicine as a legitimate means of providing health care services. The original intent of the TDA, as captured in its legislative language below, is as timely today as when it was first written 15 years ago.

“The use of telecommunications to deliver health services has the potential to reduce costs, improve quality, change the conditions of practice, and improve access to health care in rural and other medically underserved areas.”

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latest in a series of fiscally dire budget crises. California must also contend with medical inflation outstripping general inflation, shortages of health care providers, and an unequal distribution of spe-

cialists. Telehealth technologies can serve as tools to expand the delivery of high-quality, efficient medical care.

This report puts forth a Model Statute, developed by the Center for Connected Health Policy (CCHP). CCHP convened a diverse group of 25 prominent health care professionals to serve on its Telehealth Model Statute Work Group. Over a year's time, Work Group members studied and debated current California policies and available research, and helped hone recommendations for the Model Statute.

The Model Statute represents a platform for the ideal California telehealth policy environment, and sets aside constraining fiscal, economic, and political considerations. It should be acknowledged that there was not unanimous consensus among the Work Group members on all of the recommendations presented in this report. While this report reflects the Work Group's deliberations, CCHP assumes full responsibility for its content. Work Group members participated as individuals; neither they nor their respective organizations were asked to endorse the policy proposals presented here.

The Model Statute is a revision to California's visionary TDA, which focused on expanding coverage of interactive telemedicine services by private and public insurers. In 1996, policy makers feared patient resistance to telemedicine, on the one hand, and overuse of services on the other. These concerns led to TDA provisions, and subsequent regulations, that have become barriers to the use of telehealth. CCHP's assessment of current telehealth practice, research findings, and other states' policies, found high patient satisfaction with telehealth, and no indication of overuse. CCHP concluded that existing policy barriers to the spread of telehealth need to be eliminated.

The Model Statute proposes changes to existing law and key policy areas, where CCHP believes the state has the most leverage to promote telehealth use to the greatest benefit. The statutory changes include updates to the TDA, by broadening the type of technologies covered, encouraging more consistent payment policies, reducing administrative burdens on providers, and incorporating telehealth into state workforce laws. There are other policy recommendations that do not require changes in law, but would aid the state in the quest to expand adoption of telehealth technologies. CCHP encourages policy makers interested in sponsoring legislation to adopt all or portions of the recommendations contained in the Model Statute.

Model Statute Recommendations

Redefine Telemedicine as Telehealth and Remove Existing Restrictions

- 1A. Update the term “telemedicine” used in current law to “telehealth” to reflect changes in technologies, settings, and applications, for medical and other purposes.
- 1B. Include the asynchronous application of technologies in the definition of telehealth and remove the 2013 sunset date for Medi-Cal reimbursement of teledermatology, teleophthalmology, and teleoptometry services.
- 1C. Remove restrictions in the current telemedicine definition that prohibit telehealth-delivered services provided via email and telephone.
- 2A. Specify that any service otherwise covered under standard contract terms (e.g., covered benefit, medically necessary) must be covered, whether provided in-person or via telehealth.
- 2B. Eliminate the current Medi-Cal requirement to document a barrier to an in-person visit for coverage of services provided using telehealth.
3. Require private health care payers and Medi-Cal to cover encounters between licensed health practitioners and enrollees irrespective of the setting of the enrollee and provider(s).
4. Remove the requirement necessitating an additional informed consent waiver be obtained prior to any telehealth service being rendered.

Incorporate Telehealth into State Workforce Law

5. Require the Office of Statewide Health Planning and Development (OSHPD) to develop and implement a plan to provide greater visibility for the State Health Workforce Pilot Project (HWPP), and require that OSHPD prioritize HWPP projects that utilize telehealth.

6. Require OSHPD to receive assurances that each program receiving Song-Brown funds includes training on uses of telehealth to expand access to, and increase the efficiency of, needed care; and train prospective health professionals in the use of telehealth technologies, to the greatest extent possible.
7. Require OSHPD to incorporate mechanisms into loan repayment programs that assure that telehealth technologies are being used to expand access to health care to underserved Californians. Certification criteria for approved sites and selection criteria for applicants should reflect the state’s desire to maximize the use of telehealth technologies to the benefit of Californians with difficulty obtaining health care.

Other Statutory Recommendations

8. Require telehealth equipment and software vendors who seek to contract with the State of California to show that their products comply with current telehealth industry interoperability standards.
9. Require CalPERS to include telehealth services information in health benefits collateral materials for all beneficiaries.

Other Policy Recommendations

1. Require the state Legislative Analyst’s Office to conduct a study to identify the most promising practices using telehealth-delivered care that could benefit Medi-Cal and other state-financed health programs.
2. Require state activities related to Health Information Technology/Health Information Exchange (HIT/HIE) to explicitly include telehealth advocate representation.
3. Require practitioners providing volunteer health services via telehealth to be included in any legislation that allows for malpractice coverage to volunteers providing health services.
4. Require malpractice insurance vendors and professional societies to educate practitioners regarding their options for malpractice coverage for telehealth services.

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About CCHP

Established in 2008 by the California HealthCare Foundation, the Center for Connected Health Policy (CCHP) is a non-profit planning and strategy organization working to remove policy barriers that prevent the integration of telehealth technologies into California's health care system. CCHP conducts objective policy analysis and research, develops non-partisan policy recommendations, and manages innovative telehealth demonstration projects.

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