

MEMO TO: ATA Members

FROM: Kyle Zebley, Senior Vice President, Public Policy

DATE: October 27, 2022

RE: Updates on the ATA and ATA Action's Policy and Advocacy Work

This is an update to ATA members on ATA and ATA Action's 2022 [federal](#) and [state](#) policy and advocacy work through the end of the third quarter.

FEDERAL UPDATES

Public Health Emergency

As we eagerly await Congressional action, we have been keeping our eye on the Public Health Emergency (PHE), which was [renewed once again](#) on October 13 for another 90 days. It is important to note that at any time, the Administration could issue the 60-day notice to end the PHE, which could end of the PHE before the 90 days is up.

Congressional Action

ATA Action continues to work with Congress to ensure that the temporary extension of telehealth flexibilities enacted during the COVID-19 pandemic become permanent following expiration of the PHE.

Earlier this year, the Consolidated Appropriations Act 2022 ([H.R.2471](#)) was signed into law which included provisions supported by ATA Action that:

- extends current Medicare telehealth flexibilities for five months after the end of the PHE, including the telemental health in-person waiver
- reinstates the ability for HSA-eligible high deductible health plans to offer first dollar coverage of telehealth for the remainder of the 2022 plan year

Additionally, in July the House passed [H.R. 4040](#), the Advancing Telehealth Beyond COVID-19 Act, which would extend most of the Medicare telehealth flexibilities until the end of 2024. The pathway for this legislation moving in the Senate is uncertain, but ATA Action is actively advocating to get another longer-term extension to provide more certainty for patients and providers across the U.S.

End of Year

Over the past few weeks, Congress has been out of session and will continue to be until the mid-term election. Once they are back in session, there will be an opportunity during the lame duck to push for an extension of the telehealth flexibilities that were included in H.R. 4040, as well as items that were left out, such as the extension of:

- the High Deductible Health Plan (HDHP) and Health Savings Account (HSA) telehealth tax provision
- allowing telehealth services to be treated as an excepted benefit
- the in-person requirement waiver for the prescription of controlled substances via telehealth
- the Acute Hospital Care at Home Program

ATA Action will continue to push Congress to include these items in an end-of-year package.

Looking Ahead – Items to Watch For

- The release of the final Centers for Medicare and Medicaid (CMS) CY2023 Physician Fee Schedule Rule. The ATA submitted industry leading [comments](#) at the beginning of September to CMS for their consideration.
- The release of the draft proposed Ryan Haight Special Registration Rule. Currently, the draft rule sits with the Office of Management and Budget (OMB). It was supposed to be sent back to the Drug Enforcement Agency (DEA) [in August](#), but we have yet to see any movement. The ATA and ATA Action have been putting pressure on the DEA to act before the PHE ends to ensure patients are able to continue receiving treatment via telehealth.

Federal Third Quarter Activities

Legislative

- [Stakeholder](#) Letter Urging the Senate to Take Action this Fall on Telehealth
- [Stakeholder](#) Telehealth Hospice Letter to Congress

Regulatory

- [Comments](#) on CY2023 Home Health Proposed Rule
- [Comments](#) on CY2023 Physician Fee Schedule Proposed Rule
- [Letter](#) to CMS on Medicare Advantage Request for Information
- [Comments](#) on HHS 1557 Nondiscrimination Rule
- [Comments](#) on Veterans Affairs Proposed Rule: Health Professionals Practicing via Telehealth

Other

- [Recommendations](#) for Acute Hospital Care At Home Program
- Updated [Federal Legislative Tracker](#) for 117th Congress

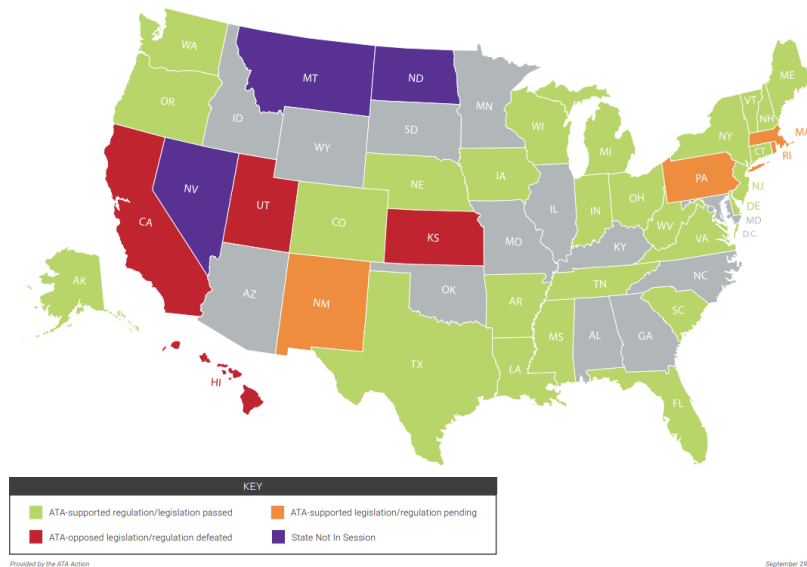
STATE UPDATES

Successes

As many state legislatures are out of session for the year or as sessions are coming to an end, it has been yet another successful year for telehealth in many states. ATA Action is tracking over 2,000 telehealth bills introduced thus far in 2022 and has been active in 40 states through virtual or in-person testimony and written comments.

Through testimony and coalition building, ATA Action has helped 26 positive telehealth bills pass into law and defeated multiple bills and rules that would have restricted access to telehealth, including in key states such as California, Hawaii, Kansas, and Utah.

2022 Third Quarter Report



Map as of 9/29/22

2023 State Legislative Sessions (see calendar [here](#))

- All 50 state legislatures will convene, including Montana, Nevada, North Dakota, and Texas, which only meet in odd-numbered years
- In January, 45 state legislatures will convene, including 35 states between January 2-10 and 10 states between January 11-17
- California’s 2023-2024 legislative session is the first to convene on December 5
- As usual, Louisiana lawmakers meet last among the 50 states, convening on April 10

TELEHEALTH AWARENESS WEEK RECAP

Telehealth Awareness Week 2022 served as a landmark event in the history of healthcare, putting a spotlight on the many ways telehealth has helped improve access to quality care for patients nationwide.

There were many highlights from the week, including:

- Bipartisan Telehealth Awareness Week Congressional resolutions introduced in both the U.S. House and Senate that unanimously passed in the Senate
- Over 70 Members of Congress signed on as Policy Champions of TAW, representing 40 states
- Arkansas, Indiana, Kentucky, Missouri and New Hampshire issued proclamations recognizing September 18-24, 2022, as Telehealth Awareness Week

ACTION ITEMS

- **Stakeholder Letter:** ATA, APA, and AACAP are co-leading a letter, Urging the DEA to Act Prior to the Expiration of the PHE to Ensure Continued Access to Treatment. [Sign on here by COB Wednesday, November 9!](#)

HOW TO STAY INVOLVED

- Join the ATA's Government Relations Special Interest Group (SIG): The ATA launched our new Government Relations SIG earlier this year. This is a forum where likeminded stakeholders discuss the latest updates at the federal and state level. Click [here](#) to join now!
- Join the ATA's monthly policy webinars where we gather expert panelists to discuss a different topic each month, such as interstate licensure, commercial coverage of telehealth, and more. Sign up for November's webinar [here!](#)

I hope you find this update helpful, which you can also download in .pdf format. We could not be as influential as we are on behalf of the industry without your continued support, and we extend our special thanks to our ATA Action partners.

Please contact Kyle Zebley or Alexis Apple should you have questions. You can reach us at kzebley@americantelemed.org and aapple@americantelemed.org.