



# The Council of State Governments

## CSG Healthy States National Task Force Human Health Subcommittee

### *Summary of Meeting Three, July 12, 2022*

The third meeting of the CSG Healthy States National Task Force – Human Health Subcommittee took place during the Annual Meeting of The Council of State Governments (CSG) Southern Legislative Conference in Oklahoma City, Oklahoma on Tuesday, July 12, 2022. The subcommittee explored issues related to advances in **health care technology** and how state leaders can enable **telehealth** in their jurisdictions to improve health outcomes.

#### **“Innovations in the Health Care Workforce”**

**Kyle Zebley**, Vice President of Public Policy at the American Telemedicine Association, presented to the subcommittee on the benefits of telehealth adoption and recent policy trends around making virtual care delivery systems effective across states. A few highlights:

- Telehealth includes a variety of health care delivery modalities including virtual visits, chat-based interactions, remote patient monitoring and hybrid care.
- Polling shows that the U.S. public views telehealth favorably, in part due to the COVID-19 pandemic’s role in sharply increasing use of telehealth services.
- Still, wider telehealth acceptance is negatively affected by misconceptions related to fraud, cost, equity, quality, clinical appropriateness and continuity of care. In his presentation, Zebley reported that recent research has shown telehealth to be no more fraudulent than in-person care, that the continuity of patient care is better under telehealth and that telehealth modalities often have better cultural competency as they allow patients to connect with providers who, for example, look like them or speak their language.
- Zebley stressed that when it comes to telehealth, the American Telemedicine Association believes that doctors should decide what service modality is clinically appropriate for their patients. The association’s goal is to ensure that a doctor is able to use telehealth services to address patient needs whenever the doctor sees a benefit in doing so.
- Zebley discussed state policy trends related to telehealth and listed the following notable state actions:
  1. Creating interstate compacts to allow telehealth care providers to work across state lines.
  2. Establishing patient/provider relationships virtually.
  3. Prescribing controlled substances via telehealth.



4. Expanding provider types.
5. Expanding service ties.
6. Pushing health care delivery to be modality neutral.

### **Human Health Subcommittee Work Session**

Human Health Subcommittee members met in a working session after Zebley's presentation to discuss the content covered and brainstorm additional policy themes to consider for the subcommittee's bipartisan recommendations for improving the human health of states. A summary of the subcommittee's conversation follows:

- One issue that state leaders have had to face is that the technology that connects patients to telehealth services is not always accessible. In one example, a subcommittee member talked about the equity dividends related to affordability of broadband in some areas and the technical acumen needed to navigate health care services once connected to the web. Other members mentioned that the affordability of internet-enabled devices is a telehealth roadblock.
- In response, Zebley agreed that telehealth is not a cure-all and that other infrastructure needs must be met for telehealth to benefit a wide range of residents. He also mentioned that his organization is modality neutral and that some telehealth services can be delivered just as well by phone.
- Privacy concerns around telehealth are also a deterrent. Zebley offered that it is the association's position that while regulations in the Health Insurance Portability and Accountability Act were relaxed in some jurisdictions during the early days of the COVID-19 pandemic, there should be returned to 100 percent enforcement. Because the act was written before many of today's telehealth technologies were imagined, there is a group called the Healthcare Leadership Council that is working on a privacy and security campaign which includes telehealth confidentiality principles that the association endorses.
- Additional privacy concerns have been in the spotlight due to the Supreme Court's ruling in *Dobbs v. Jackson Women's Health Organization*, related to residents seeking contraceptive care through digital platforms. This issue will be decided in the court system and subcommittee members mentioned that cases on the topic are already pending in their states.
- A subcommittee member asked: how much should telehealth replace traditional forms of in-person care? Zebley responded the association's position is that it should be up to licensed medical professionals to decide what types of care are suitable for telehealth modalities.
- Concerns around the standard of care achievable through telehealth in areas such as childhood mental health and substance use disorder and in long-term hospital at home settings were also raised. The subcommittee requested more information on these topics.



## Human Health Subcommittee Policy Themes

The Human Health Subcommittee proposed the following policy themes as potential recommendations to consider during the final Working Session:

- Policy Theme 1: The Council of State Governments should work with the Justice Center and The National Center of State Courts to create a framework for how the private sector, state legislatures and the courts can work together to expand modality options for court activities and increase health care access for justice involved individuals.
- Policy Theme 2: State policymakers should create standards on how they will adapt to new health care technologies while maintaining a high standard of care as a priority and without eliminating the human factor in health care provision. Policymakers should look in particular at technological use in settings such as (1) hospital at home, (2) long-term hospital at home and (3) other forms of remote patient monitoring.
- Policy Theme 3: State policymakers should consider using the federal assistance received during the COVID-19 pandemic to increase telecommunications access for residents so that telehealth becomes more accessible to a wider population.
- Policy Theme 4: State policymakers should work within their health and justice departments to assess the cost savings potential of expanding telehealth service provision to individuals in state jails and other vulnerable populations, such as youth seeking mental and chemical health care.
- Policy Theme 5: State health offices should investigate and educate both legislatures and the general public on common myths related to telehealth and mental health and chemical health services.

## Resources

- The Healthcare Leadership Council's [Confidentiality Coalition's Beyond HIPPA Principles](#) (Web Resource)
- [State of Compacts – ATA](#) (Web Resource)

## Policy Examples Highlighted by Task Force Members, Partners and Staff

- **Arizona** has a modality neutral definition of telehealth, defined in [AZ Revised Statutes Sec. 36-3601](#). The state also permits most controlled substances to be prescribed through telehealth, consistent with federal law.
- In **Florida**, out-of-state health care providers can register online for a permit to provide telehealth services to Florida residents. Providers register, pay a fee and agree to meet certain standards and follow local laws (based on where the patient is located). They are then able to see patients domiciled in Florida. State leaders have found that cross-state telehealth offerings have positively affected



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rural residents that lack easy access to brick and mortar health care centers. The enabling legislation can be found in [Chapter 456.47, Florida Statutes](#).

- **Illinois** state law ([215 ILCS 5/356z.22](#)) prohibits insurance providers from requiring in-person contact before the provision of telehealth services.

### **Human Health Subcommittee**

- Chief Justice Bridget McCormack, MI (co-chair)
- Chief Executive Officer Dannette Smith, NE Department of Health and Human Services (co-chair)
- Rep. Colleen Burton, FL
- Chief Justice Susan Christensen, IA
- Chief Privacy Officer Ted Cotterill, IN
- Judge Melanie May, FL
- Justice Anne McKeig, MN
- Rep. Cindy Ryu, WA
- Rep. Brian Sims, PA
- Sen. Trey Stewart, ME

### **Contact Information**

#### **2021-22 CSG Health States National Task Force**

| [Website](#)

| [Email](#)

#### **CSG Staff**

Carl Sims  
The Council of State Governments  
[csims@csg.org](mailto:csims@csg.org)

Dexter Horne  
The Council of State Government  
[dhorne@csg.org](mailto:dhorne@csg.org)