

# APA's Telehealth Advocacy During the COVID-19 Public Health Emergency

July 27, 2020



During the global COVID-19 pandemic, APA has advocated for changes to federal and state legislative and regulatory telehealth policies that ultimately have improved access to care. Federal and state officials, as well as payers, have responded by adopting new policies around telepsychiatry care delivery, reimbursement, and electronic prescribing. These include allowing for the electronic prescription of controlled substances with an initial clinical evaluation occurring via telepsychiatry instead of requiring an in-person visit; allowing for Medicare beneficiaries to be seen in the home, regardless of geographic location or requiring travel to an “Originating Site,” and allowing patients to be seen—and allowing for doctors to be compensated for—audio-only telepsychiatry encounters.

As the public health emergency continues, APA will continue to advocate on behalf of its members and their patients that payers consider the benefits of retaining these policy changes that have been vital to improving access to psychiatric services via telehealth.

**To that end, we have used, and will continue to use, a variety of strategies to communicate with policymakers and private payers including:**



**Letters to Members of the United States Congress, the Administration, Governors, State Insurance Commissioners, State Legislators, and Private Payers. Examples included below:**

- [APA Recommends \(Coronavirus\) Supplemental Funding Package Remove Telehealth Restrictions](#)
- [APA and Telehealth Groups Ask Congress for Clarification and Removal of Telehealth Barriers During the Coronavirus Public Health Emergency](#)
- [APA Urges Congress to Include Psychiatry Priorities in Future COVID-19 Supplementals](#)
- [APA Urges Inclusion of Mental Health and other Priorities in Upcoming COVID-19 Legislative Relief Package](#)
- [APA Urges CMS to Maintain Recent Telehealth Flexibilities](#)
- [APA Praises CMS Action to Increase Telehealth Access via Phones](#)
- Representatives Napolitano (D-CA) and Katko (R-NY) sent a letter to HHS and CMS to expand use of audio-only telehealth services, including specific codes requested by APA.
- Senators’ Manchin (D-WV), Hyde-Smith (R-MS), Shaheen (NH-D) and Moran (R-KS) sent APA-supported letter to HHS to expand use of audio-only telehealth services.



**Congressional testimony – APA specifically mentioned support for telehealth legislation**

- [House Energy and Commerce Committee - Hearing on Mental Health - Dr. Jeffrey Geller Testimony](#) - June 2020
- [House Energy and Commerce Committee - Hearing on Substance Use Disorders - Dr. Smita Das Testimony](#) - March 2020



### **Congressional telehealth briefings**

- [Virtual Telehealth Congressional Briefing – Spring 2020](#)
- [Telehealth Congressional Briefing – Winter 2020](#)



### **Member webinars to educate and urge grassroots advocacy**

- [Advancing the Use of Telehealth Through Education and Advocacy](#) (July 8, 2020)
- [Telepsychiatry in the Era of COVID-19](#) (March 20, 2020)



### **Coalition outreach with other mental health/addiction organizations and medical societies. Examples included below:**

- [APA and Physician Organizations Address Payment Concerns Regarding Telephone Appointments During COVID-19](#)
- [APA Joins Mental Health Groups to Praise State Efforts to Cover Telehealth \(View Example Alabama Letter\)](#)
- APA and Mental Health Partner Organizations send Joint Letter to Governors and Insurance Commissioners, Requesting Continued Coverage and Increased Access for Telehealth
- APA Leads other Medical Associations in Letter to Governors and Insurance Commissioners, Requesting Permanent Coverage and Increased Access to Telemedicine



### **Personal outreach to policymakers and private payers (e.g., meetings, phone calls)**

- Direct Communication with CMS technical staff
- Direct Communication with Medical Directors from major payors
- Meetings with Congressional Committees of jurisdiction



### **Media outreach and coverage**

- [The Wall Street Journal: Your Video Therapist Will See You Now](#)
- [Consumer Reports: How to Find Affordable Mental Teletherapy Now](#)
- [Healthcare Executive Magazine: Behavioral Healthcare Now and Post COVID-19](#)
- [HealthDay/US News & World Report: COVID-19 Is Making Psychiatric Treatment Tougher](#)
- MedPage Today: Psychiatrists Decry Barriers to Wider Adoption of Telemedicine



### **Tools developed for members**

- APA developed [this sample letter](#) for members to send to the private insurers and Medicaid Directors that provide coverage to their patients
- APA guidance on regulatory flexibilities entitled, [Support of the Permanent Expansion of Telehealth Regulations after COVID-19](#)
- [APA Survey Results on Telehealth](#)
- [APA Telepsychiatry Toolkit](#)
- [COVID-19 Information Hub includes practice guidance and changes to federal and state laws and regulations.](#)

# APA policy recommendations and specific actions and achievements

## 1. Extend the telehealth waiver authority under COVID-19 beyond the emergency deceleration to study its impact.

- Wrote to HHS Secretary requesting an extension of the Public Health Emergency for COVID-19
- At the federal level, we have sent letters in coordination with other mental health/substance use organizations and medical societies to Congressional staff.
- At the state level, we have worked with states such as Colorado to secure a new law increasing access and coverage to telemedicine. APA has already provided draft telemedicine legislation to 20 other states and is leading a coalition of medical specialty organizations interested in this state legislation, as well.

## 2. Remove geographic restrictions for mental health and allowing for patients to be seen in the home.

- In the SUPPORT Act signed into law in 2018, APA successfully advocated for the geographic and originating site (in home) telehealth reimbursement restrictions to be lifted for substance use disorders and co-occurring mental health diagnoses. Prior to the public health emergency, we were already strongly advocating to lift the restrictions on Medicare reimbursement for mental healthcare provided via telehealth, and we have continued to do so during the pandemic. APA has supported telehealth bills that specifically address this issue, which have been introduced in three major congressional committees including Energy and Commerce, Ways and Means, and Finance. Most recently, the House Energy and Commerce Committee approved a bill that would make lifting these restrictions permanent for mental health. We are working to have it approved by the full House and Senate.
- At the state level, we have model telemedicine legislation for states that will strengthen states' underlying telemedicine statutes and increase telemedicine access and coverage, including reimbursement parity with in-person psychiatric care.

## 3. The Drug Enforcement Administration (DEA) should finalize regulations for Ryan Haight Act to allow for the prescribing of controlled substances via telehealth without an initial in-person exam.

- APA has prioritized advocating for the DEA to finalize these regulations for the past five years. This would provide guidance on the “special registration” provision under Ryan Haight—one of 7 exceptions to the in-person, initial examination requirement. Under the SUPPORT Act, Congress mandated the DEA to issue regulations no later than October of 2019, but that the DEA failed to meet this deadline. Under the public health emergency exception under Ryan Haight, psychiatrists have been successfully electronically prescribing controlled substances via telemedicine without an initial in-person examination. We have highlighted this in



particular while advocating for the administration to release regulations around the special registration. These advocacy efforts have included testifying before the DEA, submitting comment and coalition letters, as well as reaching out directly to DEA staff responsible for promulgating the final rule.

#### **4. Continue to cover and reimburse for telehealth services equal to in-person visits.**

- In letters to the administration we have advocated that Medicare maintain current payment parity for telehealth services, continuing to cover care provided via telehealth at the same rate as if the care was delivered in person.
- At the state level, our state model telemedicine legislation includes provisions to secure reimbursement parity with in-person visits for private payers.

#### **5. Allow for the use of telephone (audio) only communications for evaluation and management and behavioral health services (including psychotherapy) to patients with mental health and substance use disorders when it is in the patient's best interest, and should be paid at no less than an in-person visit or a traditional (i.e., live video) telepsychiatry encounter.**

- APA strongly advocated with CMS to allow for audio-only communication for evaluation and management and behavioral health services following the Public Health Emergency. Our telehealth survey results and calls to our Practice Management HelpLine stress the importance of allowing for audio-only options for patients with limited broadband access and for those have difficulty accessing/using video technology.

#### **6. Maintain coverage and increased payment for the telephone evaluation and management services.**

- APA in conjunction with other physician groups, successfully advocated that CMS provide coverage and increase the payment for telephone evaluation and management services providing physicians an opportunity to be paid for care provided by the telephone.

#### **7. Remove frequency limitations for existing telehealth services in inpatient settings and skilled nursing facilities.**

- In letters to the administration APA has requested that frequency limitations for telehealth services currently in place in inpatient and nursing home settings be lifted to allow for care based on medical necessity rather than an arbitrary number.

#### **8. Cover all services on the expanded Medicare approved telehealth list including group psychotherapy.**

- APA supported CMS's decision to include group psychotherapy on the expanded list of Medicare services available as via telepsychiatry. We have expressed support for maintaining those services on the telehealth list moving forward.

#### **9. Allow teaching physicians to provide direct supervision of medical residents remotely through telehealth.**

- APA successfully advocated to allow teaching physicians to provide supervision via telehealth to ensure access to care for patients and learning opportunities for residents.

#### **10. Telehealth consultations should include any synchronous or asynchronous consultation with a patient by regular telephone, text, or videoconferencing.**

- Currently, all 50 state Medicaid programs cover synchronous (live video) telepsychiatry and, prior to the PHE, not all synchronous interactions outside of live video were reimbursed; only 16 state Medicaid programs reimburse for store & forward (asynchronous). Allowing for S&F would be beneficial to the

collaborative care model. Private payers' individual coverage of S&F telepsychiatry is even more varied, and APA will continue to advocate that they reimburse for these services.

**11. The Federal government should fund research to understand the successes, challenges, barriers, innovations, safety, training needs, and workforce utilization of telehealth across the healthcare delivery landscape during the public health emergency.**

- Signed on to a letter for the Agency for Healthcare Research and Quality (AHRQ) to research. A white paper was released on May 14 from AHRQ, [\*The Evidence Base for Telehealth: Reassurance in the Face of Rapid Expansion During the COVID-19 Pandemic.\*](#)

## Actions Members Can Take To Advocate For Telehealth



At the end of April, APA ran a very short, time sensitive campaign that urged CMS to allow patients to receive individual therapy and medication management with their psychiatrists through audio-only telephone appointments. In less than 24 hours, 231 psychiatrists sent 544 letters to senators.

Currently, APA members can support maintaining access to telehealth by using [APA's online tool to send a pre-written letter to their lawmakers.](#) APA members can also [join APA's Congressional Advocacy Network](#) and APA will provide you with the tools to prepare you to meet with your federal lawmakers to discuss maintaining access to telehealth as well as other future subjects.