

SENATE HEALTH, EDUCATION, LABOR & PENSIONS COMMITTEE: TELEHEALTH: LESSONS FROM THE COVID-19 PANDEMIC

EXECUTIVE SUMMARY

The Senate Health, Education, Labor and Pensions (HELP) Committee convened a [hearing](#) to discuss which telehealth policy changes made in response to the COVID-19 pandemic ought to be made permanent following the end of the national public health emergency (PHE) period.

The hearing follows the President's Executive Order (EO) directing federal agencies to review existing waivers and flexibilities to determine what, if any flexibilities, would aid in economic recovery if made permanent beyond the PHE ([WHG summary](#)). The discussion also comes amid increasing telehealth utilization in the wake of temporary regulatory flexibilities extended by the Centers for Medicare and Medicaid Services (CMS) via section 1135 waiver authority ([WHG chart of COVID-19 telehealth flexibilities](#)).

OPENING STATEMENTS

In his [opening statement](#), **Chairman Lamar Alexander (R-TN)** stated that the purpose of the hearing is to examine “which temporary changes [to telehealth] should be maintained, modified, or reversed” and consider additional federal policies that would help providers and patients leverage telehealth.

The Chairman noted that CMS' temporary waiver of “originating site” statutory restrictions, as well as the broader expansion of covered telehealth services, should be made permanent. Chairman Alexander further suggested that the decision to extend the privacy waivers pursuant to the Health Insurance Portability and Accountability Act (HIPAA) should be considered “carefully.” He also acknowledged that broadband access can limit telehealth. Additionally, he expressed reluctance to “override state decisions,” but alluded to the possibility of “encourag[ing] further participation in interstate compacts or reciprocity agreements.” Lastly, he highlighted his [white paper](#), “Preparing for the Next Pandemic” – which he urged Congress to take up this year – noting that the paper includes a recommendation to ensure the U.S. does not lose momentum in expanding telehealth access.

Sen. Tina Smith (D-MN) remarked on the improvements in health care delivery made by telehealth during the COVID-19 pandemic and urged Congress to make changes to telehealth that would address systemic inequities in communities of color, rural communities, and poor communities. She noted that the lack of technology, digital literacy, and high-speed internet creates a “digital divide.” Sen. Smith asked witnesses to speak to the following: (1) how to close the digital divide to improve health equity; (2) how to protect

patients, particularly their privacy while expanding telehealth; and (3) which flexibilities should be made permanent and what other investments should be made.

WITNESS TESTIMONY

Dr. Karen S. Rheuban, Professor Of Pediatrics, Senior Associate Dean Of Continuing Medical Education, and Director, University of Virginia Karen S. Rheuban Center for Telehealth [recommended](#) Congress: (1) align incentives for adoption of telehealth for Medicare, Medicaid, and commercial insurers; (2) authorize the Health and Human Services (HHS) Secretary to make permanent telehealth changes made during the PHE; (3) provide support to further broadband deployment; and (4) increase funding for telehealth resource centers funded by the Health Resources and Services Administration (HRSA).

Dr. Joseph C. Kvedar, President, American Telemedicine Association, Professor, Harvard Medical School, Virtual Care, Mass General Brigham, Editor, npj Digital Medicine, [recommended](#) Congress: (1) modernize statutory geographic and originating site limitations; (2) ensure HHS has the flexibility to expand the list of health care providers eligible to deliver services via telehealth; (3) maintain HHS' authority to add and remove eligible telehealth services; (4) ensure that Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHCs) – which are qualifying distant sites pursuant to the CARES Act – receive “fair and appropriate reimbursement”; and (5) provide grants to expand broadband access to rural communities. He added that states need to streamline provider licensing across stateliness.

Dr. Sanjeev Arora, Distinguished and Regents' Professor, University Of New Mexico Health Sciences Center, Founder and Director, Project ECHO/ECHO Institute, [urged](#) Congress to pass provisions in the House-passed HEROES Act (H.R. 6800) that would build upon the success of [Project ECHO](#). Specifically, these provisions would create a grant program under HRSA to support organizations that are using technology-enabled collaborative learning and capacity-building for their COVID-19 response. Dr. Arora also urged the Committee to direct CMS to issue guidance to states on finance strategies available through Medicaid.

Dr. Andrea D. Willis, Senior Vice President, Chief Medical Officer, BlueCross BlueShield of Tennessee, [stated](#) that they are the first major insurer to commit to making in-network telehealth services available after the PHE. Dr. Willis noted that “existing processes” for credentialing, contracting, reimbursement, and audit policies will help protect against fraud, waste, and abuse. Last, she called for further discussion on the measures needed to protect the privacy and security of members receiving telehealth services.

MEMBER DISCUSSION

Racial Disparities and Vulnerable Populations

Senator Robert P. Casey, Jr. (D-PA) focused his attention on his concerns around racial disparities and the prevalence of inequitable health outcomes across vulnerable populations in general (e.g., children, senior citizens, the LGBTQ+ community, mental health patients, and those experiencing homelessness).

He asked whether and how increased access to telehealth would improve outcomes for these populations, and what the risks are for pulling back any of the temporary flexibilities offered during the PHE. Dr. Rheuban noted that vulnerable populations see tremendous benefits through increased access to telehealth, adding that being able to remotely monitor patient vitals allows patients with many clinical conditions to receive important care from a distance in a cost-effective and high-quality way. She cautioned that pulling back any of the flexibilities puts these vulnerable populations especially at risk.

Dr. Kvedar highlighted in particular the importance of expanded access to audio-only services and how these services have helped patients where access to broadband is limited, noting “there is a lot we can do by telephone.”

Dr. Arora reminded the panel, however, that increased access to services does not increase the supply of specialists in the U.S., and that many vulnerable patients require specialty care. Measures to increase the supply and capacity of specialists would be an important next step, he concluded.

Specific Telehealth Flexibilities to Make Permanent

In discussion, Chairman Alexander indicated that, of the 31 telehealth flexibilities extended by CMS during the PHE, two provisions struck him as the most important (i.e., in terms of making permanent). These include the waiver of Medicare’s statutory “originating site” restrictions and the new set of telehealth services CMS has authorized for coverage under Medicare. Dr. Willis agreed with the Chairman’s assessment that these two flexibilities be extended to providers and beneficiaries on a permanent basis, as did others on the panel who later verbally affirmed their endorsement. Dr. Willis further suggested that state licensure issues be considered, pointing to some positive experiences with interstate licensure compacts, so long as care coordination remains paramount. She also spoke to issues regarding broadband connectivity and HIPAA-related security measures.

Senator Susan Collins (R-ME) asked the panel whether it would be important to make permanent the waivers allowing an additional array of non-physician providers to furnish telehealth services. All panelists emphatically agreed. Sen. Collins also asked about the efficacy of providing services via telephone-only platforms, and whether the potential for fraud was an important issue to consider. Dr. Kvedar replied stating that telephone-only services are very effective in treating many conditions. He agreed that the issue of fraud is important to consider but added that there are ways to authenticate people over the phone, and that Congress should not let this issue stand in its way in offering this flexibility to beneficiaries.

In a discussion with **Senator Richard Burr (R-NC)**, Dr. Kvedar remarked that it will be equally important for the private insurance market and the federal government to make telehealth-related changes in sync with one another, as operating a care model under a multitude of different payment rules across insurers. Dr. Rheuban emphatically agreed and added that “as much harmonization as possible” would assist providers in expanding access to telehealth.

In response to **Senator Tammy Baldwin (D-WI)**, Dr. Rheuban added that certain flexibilities around e-consults and the ability for providers to coordinate with one another via telehealth have been important to the pandemic response and should be made permanent.

Cost-effectiveness of Telehealth

Dr. Willis indicated that BCBS of Tennessee was still collecting data on cost, quality and patient experience and was not yet able to discern whether there were significant costs or savings associated with the increased deployment of telehealth to its members. However, Dr. Willis did note that they expect these changes to lead to certain efficiencies that could ultimately lower costs in the long term (e.g., meeting unmet care needs and preventing ED visits). While no other payers to her knowledge have made the decision to permanently expand access to telehealth services, Dr. Willis noted that many have shown interest in doing so and have reached out to BCBS Tennessee to learn more.

Access to Care, SUD and Behavioral Health Services

Overall, Sen. Smith noted that “no-show” patient rates were down, presumably attributing the purported decline due to patients’ enhanced access to telehealth services (in lieu of in-person visits).

In response to Sen. Smith’s further questioning, Dr. Rheuban discussed how the new telehealth flexibilities have increased patients’ access to services, particularly behavioral health and substance use disorder (SUD) services, which are often accompanied by stigma. Many of these services can now be provided via telephone, vs. two-way real-time video communication, pursuant to the temporary flexibilities extended by CMS during the PHE, Dr. Rheuban noted. Later, along these lines, Dr. Kvedar advocated for broader behavioral health parity, endorsing pending legislation, the Tele-Mental Health Improvement Act ([S. 3792](#)), that would expand access to mental health and behavioral health services via telehealth.

In discussion with Sen. Baldwin, Dr. Rheuban remarked that pandemic-drive changes from the U.S. Drug Enforcement Administration (DEA) have supported behavioral health care providers in treating patients remotely. Specifically, these changes include allowing providers to remotely prescribe controlled substances via telehealth encounters.

Dr. Arora further explained to **Senator Maggie Hassan (D-NH)** that using the ECHO model to connect providers with mental health specialists is also necessary to ensure a sufficient response to behavioral health needs via telehealth.

Privacy and Security

In response to questioning led by Sen. Smith, Dr. Kvedar noted that privacy considerations are top priority, and HIPPA is a backbone for those protections. Dr. Kvedar suggested that industry suppliers and vendors sign compliance agreements with HIPPA regulations.

Telehealth Technologies

Senator Tim Kaine (D-VA) asked whether telehealth-related training would be necessary in response to a surge in telehealth use following the pandemic. Dr. Rheuban affirmed that additional trainings will be important to ensure multiple provider types are able to operate telehealth technologies effectively. She

added that educating patients on the benefits of telehealth and how to engage with these technologies would also be helpful. She noted in particular that training patients on diabetes self-management during the pandemic has been especially impactful.

In addition to telehealth technologies themselves, **Dr. Kvedar** emphasized the importance of data standardization and EHRs in facilitating care coordination across a virtual care environment. He added that the way the postal service matches addresses presents a potentially “elegant solution” to allowing the health care system to match patient records with the appropriate patients.