

Expanding Access to Telehealth in Florida:

Recent Progress and Opportunities for Improvement



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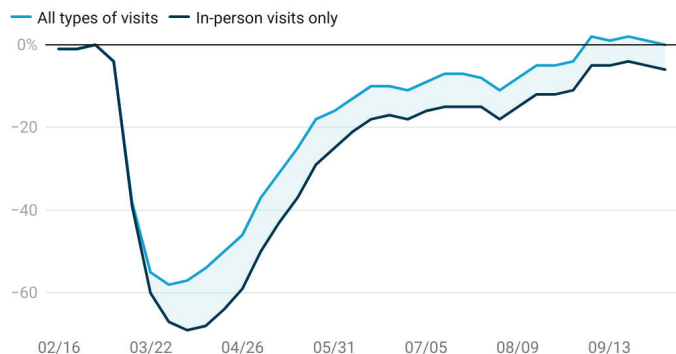
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COVID-19 has highlighted the need for flexibility in our healthcare system. However, the patchwork of regulations and burdensome licensing requirements that govern the delivery of healthcare services presents a barrier to adaptation and innovation. Recognizing this problem, governors in nearly every state acted wisely to loosen regulatory obstacles to care for the duration of the pandemic. Emergency orders across the country temporarily suspended licensing requirements and restrictions on telehealth services to allow healthcare providers to practice across state lines.¹

FIGURE 1. Percent Change in Outpatient Visits



Data are presented as percentage change in number of visits in a given week from baseline week (March 1–7). Telemedicine includes both telephone and video visits.
Chart: Reason Foundation and The James Madison Institute •
Source: Ateev Mehrotra et al., The Impact of the COVID-19 Pandemic on Outpatient Care: Visits Return to Prepandemic Levels, but Not for All Providers and Patients (Commonwealth Fund, Oct. 2020).
• Created with Datawrapper

Over the last year, these actions have helped ensure access to care—particularly through the use of telehealth. In fact, as stay-at-home orders caused in-person outpatient visits to decline nationally, increased use of telehealth made up for some of the gap in care. The shaded area in **FIGURE 1** reflects this increased use of telehealth. A recent analysis of insurance claims data from a national sample of 16.7 million individuals with commercial and Medicare Advantage insurance provides state-level insights into these trends.² In Florida, total weekly visits declined by 24 percent

between May 20th and June 16th of 2020. Over that same period, telehealth visits accounted for 17.4 percent of total visits in Florida.³

Going forward, lawmakers should acknowledge that overly restrictive regulations aren't just a problem during a crisis—they limit access to care every day. Fortunately for Floridians, lawmakers in the Sunshine State have long recognized the potential tradeoffs associated with healthcare regulation. In recent years, lawmakers passed scope of practice reforms and enacted one of the best telehealth laws in the country. However, experiences from the pandemic still offer valuable lessons and point to opportunities for improvement.

The Current State of Florida's Telehealth Laws

In 2019, the Florida legislature enacted a significant improvement to Florida's telehealth policies. The reforms created a unified definition of telehealth, altered rules around insurance coverage of telehealth services, and authorized a wide range of healthcare professionals to engage in telehealth services. The reforms also required licensing boards to create a telehealth registration process for out-of-state providers. This process allows providers licensed in other states to practice telehealth in Florida without obtaining an additional Florida license.





Defining Telehealth

The term telehealth broadly refers to the delivery of healthcare services and information through telecommunications or digital communications technologies. There are generally three modalities through which telehealth services are provided:

- **Live video (synchronous)** refers to “two-way interactions between a person (patient, caregiver, or provider) and a provider using audiovisual telecommunications technology” such as Skype or Zoom.⁴
- **Store-and-forward (asynchronous)** technologies allow for the transmission of medical information, such as digital images, documents, and pre-recorded videos through secure electronic communication.⁵
- **Remote patient monitoring** allows providers to remotely track and assess patients’ health data. This includes data such as vital signs, weight, blood pressure, blood sugar, blood oxygen levels, heart rate, and electrocardiograms.⁶

Florida’s definition of telehealth includes all three of these modalities. It does not include phone calls, emails, or facsimile (fax) transmissions. Permitted telehealth services include “assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration.”⁷

Who Can Practice Telehealth?

Florida law allows nearly every licensed healthcare provider to practice telehealth and the same law applies to all provider types. Each of the relevant boards or agencies are responsible for issuing rules related to the practice of telehealth by providers under their jurisdiction. Telehealth providers include:

- Behavioral Analysts
- Acupuncturists
- Allopathic and osteopathic physicians
- Chiropractors
- Podiatrists
- Occupational therapists
- Radiology technicians
- Electrologists
- Orthotist, pedorthists, and prosthetists
- Clinical laboratory personnel
- Respiratory therapists
- Physical therapists
- Psychologists
- Psychotherapists
- Optometrists and opticians
- Nurses
- Midwives
- Pharmacists
- Dentists and Dental hygienists
- Speech therapists
- Medical physicists
- Emergency medical technicians and paramedics
- Massage therapists
- Hearing aid specialists
- Dietitians/nutritionists
- Athletic trainers
- Clinical social workers
- Marriage and family therapists
- Mental health counselors

Out-of-State Registration

Florida licensing boards are required to provide a telehealth registration process for out-of-state healthcare professionals. Each board is required to maintain a list of all out-of-state telehealth registrants. Currently, there are approximately 4,907 registered out-of-state telehealth providers across 35 license types. **APPENDIX A** provides additional data on the number of active out-of-state telehealth permits for each license type.

The registration process is less burdensome than obtaining a Florida license, but ensures that telehealth providers are qualified to practice in other states. At a minimum, registrants must:

- Submit an application to the relevant board;
- Maintain an active, unencumbered license from another state that is “substantially similar” to a license issued to a Florida-licensed provider;
- Not have a pending investigation, discipline, or revocation on their license within the last five years;
- Designate a duly appointed registered agent for service of process in Florida;
- Maintain liability coverage or financial responsibility for telehealth services provided to patients in Florida;
- Not open a Florida office or provide in-person health-care services to Florida patients; and
- Only use a Florida-licensed pharmacy, registered non-resident pharmacy, or outsourcing facility to dispense medicinal drugs to patients in Florida (applies to pharmacists only)

Scope of practice (SOP) refers to the range of services that a healthcare professional may provide. Registered out-of-state telehealth providers are required to work within their SOP as provided by Florida law—even if they are licensed in a state with a less restrictive SOP. This creates unnecessary burden for out-of-state providers who must maintain knowledge of SOP provisions in their state and in Florida.

Payments through Medicaid and Private Insurance

The Agency for Health Care Administration (AHCA) is the state agency responsible for administering Florida’s Medicaid program. Approximately 90 percent of Florida Medicaid beneficiaries are enrolled in the Statewide Medicaid Managed Care (SMMC) program.⁸ The remaining 10 percent of Medicaid beneficiaries are covered through the fee-for-service (FFS) delivery system. Florida’s Medicaid FFS delivery system only reimburses for live two-way audio-video telehealth interactions. Reimbursements through FFS are the same between telehealth and in-person services.

Since 2018, AHCA has required Medicaid SMMC plans to cover

telehealth including store-and-forward and remote patient monitoring services. Telehealth services are required to be covered to the same extent as services rendered in person, and AHCA prohibits its managed care plans from establishing coverage requirements that are more restrictive for services provided through telehealth than in person. However, AHCA does not require payment parity between telehealth and in-person care. In other words, reimbursement rates may differ between services provided via telehealth and in person.

Regarding private insurance, Florida does not have a payment parity requirement. Florida law stipulates that contracts between insurers and healthcare providers “must be voluntary... and must establish mutually acceptable payment rates or payment methodologies for services provided through telehealth.” Moreover, any contract provision that distinguishes between payment rates for telehealth and in-person services “must be initialed by the telehealth provider.”⁹

While some telehealth advocates argue that requiring payment parity would promote the adoption of telehealth, parity requirements could also offset some of its cost-savings potential. Telehealth eliminates costs and inefficiencies associated with in-person care which may justify differences in reimbursement. Ultimately, lawmakers should focus on eliminating regulatory barriers to the adoption of telehealth rather than attempt to promote its use by interfering with contracts between providers and private insurers. The use of telemedicine and payment for services should be left to the market.

Recommendations and Conclusion

Telehealth has demonstrated its value throughout the COVID-19 pandemic. Beyond the current crisis, telehealth has the potential to help mitigate healthcare provider shortages, expand access to care in rural areas, and reduce costs for patients. In recent years, Florida has passed significant reforms that will help telehealth to meet this potential. Yet some areas for improvement remain.

Allowing healthcare professionals licensed in other states to register as telehealth providers without obtaining Florida licensure is a tremendous step in the right direction. However, out-of-state providers must still work within Florida’s scope of practice

laws. Short of expanding SOP requirements in Florida, allowing these providers to practice within the SOP provisions of their state of residence would reduce this burden and expand access to care.

Telehealth services, including store-and-forward and remote patient monitoring, are covered for most Florida Medicaid beneficiaries. However, Florida's Medicaid fee-for-service delivery system provides more limited telehealth coverage than the Statewide Medicaid Managed Care program. Reimbursements through FFS should be expanded to include store-and-forward and remote patient monitoring modalities.

Florida's current policy on private insurance reimbursements for telehealth services strikes the right balance between promoting the use of telehealth and preserving its cost-savings potential. Lawmakers should resist the urges of telehealth industry advocates and avoid interfering with negotiations between providers and private insurers. Eliminating regulatory barriers to the adoption of telehealth is a better strategy for unlocking its full potential.

Technology is constantly evolving and being applied to the healthcare industry in innovative ways. Increasingly, consumer electronic devices are capable of collecting health data and providing information to patients and their healthcare providers. For example, wearable devices like smartwatches can gather information about patients' fitness, activity levels, and heart rates—and even more complex measurements like blood oxygen levels. Lawmakers should avoid preemptively restricting the uses of these technologies as they emerge.

Following these recommendations and allowing for permissionless innovation in the healthcare industry will help ensure that Floridians have reliable access to quality healthcare for years to come.

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APPENDIX A.

TABLE 1. NUMBER OF ACTIVE OUT-OF-STATE REGISTRANTS BY LICENSE TYPE	
License Type	Active Registrants
Acupuncturists	7
Advanced Practice Registered Nurses	401
Audiologists	11
Board Certified Assistant Behavior Analysts	1
Board Certified Behavior Analysts	8
Certified Master Social Workers	16
Chiropractic Physicians	22
Dentists	11
Dietitians/Nutritionists	86
Hearing Aid Specialists	1
Licensed Clinical Social Workers	626
Licensed Marriage and Family Therapists	235
Licensed Mental Health Counselors	742
Licensed Practical Nurses	1
Limited License Psychologists	1
Medical Doctors	1324
Medical Nuclear Radiological Physicists	1
Midwives	1

TABLE 1. NUMBER OF ACTIVE OUT-OF-STATE REGISTRANTS BY LICENSE TYPE	
License Type	Active Registrants
Occupational Therapists	40
Optometrists	54
Osteopathic Physicians	144
Pharmacists	3
Physical Therapist Assistants	1
Physical Therapists	159
Physician Assistants	113
Podiatric Physicians	7
Provisional Mental Health Counselor Licensees	1
Psychologists	693
Radiologic Technicians	1
Registered Clinical Social Worker Interns	17
Registered Marriage and Family Therapist Interns	9
Registered Mental Health Counselor Interns	21
Registered Nurses	15
Respiratory Care Practitioners, Non-Critical Care	1
Speech-Language Pathologists	133

Note: Only license types with at least 1 active out-of-state registrant are shown. As of 25 Feb. 2021.

Source: Florida Department of Health, License Verification. <https://mqa-internet.doh.state.fl.us/MQASearchServices/HealthCareProviders>

Endnotes

- 1 “U.S. States and Territories Modifying Licensure Requirements for Physicians in Response to COVID-19,” Federation of State Medical Boards, 17 Feb. 2021. <https://www.fsmb.org/siteassets/advocacy/pdf/state-emergency-declarations-licensure-requirements-covid-19.pdf> (Accessed 22 Feb. 2021); “U.S. States and Territories Modifying Requirements for Telehealth in Response to COVID-19,” Federation of State Medical Boards, 17 Feb. 2021. <https://www.fsmb.org/siteassets/advocacy/pdf/states-waiving-licensure-requirements-for-telehealth-in-response-to-covid-19.pdf> (Accessed 22 Feb. 2021).
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- 7 FS 456.47 Use of telehealth to provide services. http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0400-0499/0456/Sections/0456.47.html
- 8 “Share of Medicaid Population Covered under Different Delivery Systems,” Kaiser Family Foundation, 1 July 2019. <https://www.kff.org/medicaid/state-indicator/share-of-medicare-population-covered-under-different-delivery-systems/?current-Timeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>
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