

Doctors without state borders: the de-regulation of medical licensing

Overview:

The COVID-19 pandemic ushered in of a new era of medical advances, innovation, and technologies. Lockdowns across the country made access to medical care sparse and strictly limited,¹ forcing healthcare providers and consumers alike to look for avenues to fill this gap in coverage.

One very popular alternative was the use of telehealth services, the ability for patients to speak with a physician virtually from the safety of their home. Unfortunately, the significant increase in new telehealth users caused issues as services became congested,² leading states and systems to struggle to hire doctors, reduce wait times, and deal with the practical limits of their software.³ This was partly due to state medical license requirements, many of which do not permit out-of-state physicians to practice if they do not possess a state medical license.⁴ This regulatory hurdle also applied to patients, who could not speak with physicians who held medical licenses in a state other than where the patient was located.⁵

Many states and the federal government responded to this barrier by issuing emergency declarations that waived the state of principal license requirements,⁶ while the federal government also loosened rules on telemedicine for Medicare and Medicaid services.⁸ This created a telehealth boom, with over 50% of U.S. physicians using some form of telemedicine by April 2020 (in comparison to 18% in 2018).⁹ This massive expansion of telehealth services not only demonstrated its usefulness and potential but highlighted the importance of de-regulating medical licensure and the practical benefits of physicians operating across state borders. As the pandemic comes to a close,

¹ Núñez, Alicia, et al. "Access to Healthcare during COVID-19." [International Journal of Environmental Research and Public Health](#), MDPI, 14 Mar. 2021.

² Farr, Christina. "Telemedicine Companies Are Struggling to Serve 'Extreme Volumes' of Patients as Coronavirus Calls Surge." [CNBC](#), 16 Mar. 2020

Olson, Parmy. "Telemedicine, Once a Hard Sell, Can't Keep Up With Demand." [The Wall Street Journal](#), Dow Jones & Company, 1 Apr. 2020

⁴ Hsieh, Paul. "To Improve Telemedicine, Reform Outdated State Medical Licensing Rules." [Forbes Magazine](#), 31 Mar. 2021.

⁵ Ibid

⁶ "The U.S. Is Relaxing Rules for Medical Professionals Working across State Lines." [Marketplace](#), 9 July 2020..

⁷ Lewis, Morgan. "HHS and States Relax Telehealth Licensing Rules for Healthcare Professionals Amid COVID-19 Emergency." [JD Supra](#), 17 Mar. 2020.

⁸ Hsieh, Paul. "To Improve Telemedicine, Reform Outdated State Medical Licensing Rules." [Forbes Magazine](#), 31 Mar. 2021.

⁹ Landi, Heather. "Half of Physicians Now Using Telehealth as COVID-19 Changes Practice Operations." [FierceHealthcare](#), 23 Apr. 2020.

health care providers, consumers, and legislators alike are looking for ways to permanently reform medical licensing.

Support for sustained telehealth use:

A recent national survey conducted by Public Opinion Strategies displays the growth of telehealth during the pandemic.¹⁰ The data exhibits the overwhelming utilization of telehealth services, its potential for consumer growth, and the likelihood for sustained usage in the future of modern medicine.

Key points on healthcare access:

- Almost six-in-ten respondents (58%) say access to medical care is a problem where they live. Underserved groups like minority populations, lower income Americans, and rural Americans are even more likely to say they experience these struggles.¹¹
- 54% of respondents say they have been uncomfortable speaking with a health care provider about a medical issue or have avoided care because of the complicated health system.¹²
 - A majority of respondents (52%) say they would prefer to communicate with a doctor in another format besides an in-person visit.¹³

Key points on telehealth utilization:

- Tracking data reflects the rapid growth of telehealth usage in the past 20 months.¹⁴ The survey displays the percent of individuals who have ever had a telehealth visit:
 - June 2019: **10%**
 - April 2020: **29%**
 - August 2020: **43%**
 - February 2021: **51%**
 - Among the 51% of those surveyed, 73% plan to continue using telehealth.
- Of those surveyed, 61% have used telehealth and plan to continue usage post-pandemic or have not used it but plan to.

¹⁰ “National Telehealth Survey.” *Public Opinion Strategies*, 2 Mar. 2021.

¹¹ Ibid

¹² Ibid

¹³ Ibid

¹⁴ Ibid

Key points on telehealth expansion:

- 65% of those surveyed would support state legislation that would allow patients to use a secure messaging platform for a telehealth visit.¹⁵
- 53% support legislation to expand patient access to asynchronous telehealth, with support much higher among the aforementioned underserved populations.¹⁶

Reform:

Increasing the use of telemedicine was not only beneficial in providing widely needed services during the COVID-19 pandemic but will continue to extend the reach of physicians, improve medical access, and increase access for the underserved communities and rural areas.

States and other parties involved are looking at several courses of action to permanently de-regulate medical licensing or reform their current systems. There are numerous options for legislators to take on this path towards reform; several possibilities stand out among academics, medical professionals, and public policy experts.

The Compact:

One of the more popular reform options is referred to as the Interstate Medical Licensure Commission or “The Compact”.¹⁷ The goal of the Compact is to streamline the traditional medical license application process for physicians wishing the practice in multiple states. Instead of a physician applying for each state individually, the Compact allows them to apply to all states in the Compact at once-- and thus allows a physician to receive separate licenses from each state in which they intend to practice.¹⁸

Currently, the Compact encompasses 32 states, the District of Columbia, and the territory of Guam¹⁹. For states to join the Compact, their state legislature must introduce and enact a bill that authorizes the state to join.²⁰

¹⁵ Ibid

¹⁶ Ibid

¹⁷ “Physician Licensure.” [Interstate Medical Licensure Compact](#), 18 May 2021.

¹⁸ Hsieh, Paul. “To Improve Telemedicine, Reform Outdated State Medical Licensing Rules.” [Forbes Magazine](#), 31 Mar. 2021.

“Physician Licensure.” [Interstate Medical Licensure Compact](#), 18 May 2021.

²⁰ Ibid



While most states waived the license requirements physicians need to practice in other states during the pandemic, the use of the Compact still grew roughly 47%.²¹ Since the first license was issued via the Compact in 2017, there have been more than 17,000 physician licenses issued—with more than half of them issued during the pandemic.²² Between March 2020 and March 2021, over 8,000 licenses were issued in comparison to nearly 4,000 from the previous year.²³ Since the start of the pandemic, eight states have introduced or passed legislation this year to admit their states into the Compact.²⁴

Elimination of Medical Licensing:

Another reform option is the elimination of state licensing of medical professionals,²⁵ which would remove a barrier to entry in the telemedicine field. This option would permit physicians to practice across the United States without the need for one or multiple licenses. Physician quality would be maintained by standards already enforced by insurers and healthcare systems.²⁶

Nationwide Telemedicine Practice:

Nationwide telemedicine practice would allow medical professionals to continue practicing telemedicine in any state based on their home-state license.²⁷ State legislatures would need to eliminate the barrier to interstate medical practice, allowing physicians to practice telemedicine based on their existing license. The medical professionals would continue to abide by and be subject to the rules and regulations of their home states-- not that of the patients.

Either the states or the federal government would have to pass legislation that would define the location of care to that of the physician's location so that patients would be able to use their services. Academics compare this process to that of when patients drive across

²¹ Robeznieks, Andis. "Cross-State Licensing Process Now Live in 30 States." *American Medical Association*, 26 Apr. 2021.

²² Ibid

²³ Ibid

²⁴ Andis Robeznieks. "Cross-State Licensing Process Now Live in 30 States." *American Medical Association*, 26 Apr. 2021.

²⁵ Svory, Shirley. "Liberating Telemedicine: Options to Eliminate the State-Licensing Roadblock." *Cato.org*, The Cato Institute, 15 Nov. 2017.

²⁶ Ibid

²⁷ Ibid



state lines to receive care. This option would remove the costly and time-consuming burden on physicians to keep up with changes to licensing requirements in multiple states.²⁸

Mutual Recognition and License Reciprocity:

States could set up mutual-recognition arrangements with one another, as some already do with their neighboring states.²⁹ A few states allow physicians licensed in nearby states to practice without a separate license. However, unlike the nationwide telemedicine practice option, they would have to abide by each state's rules, regulations, and restrictions.³⁰

Like mutual recognition, license reciprocity would work similar to a driver's license. Reciprocity would encourage, or require, states to respect valid medical licenses granted by another state; allowing physicians to practice in the state without the need for a new medical license for each state.³¹ The federal government already has such a mandate for physicians who practice within the VA system and has considered such for the Medicare program.³²

Federal Medical Licensing:

The federal government could begin allowing medical professionals to apply for a national medical license, alongside their state license, that would permit them to practice in all 50 states.³³ This practice would be similar to a "universal recognition" system and the two other systems laid out above. However, this option could lead to a centralization of medical licensing power within the federal government.

Bottom Line:

Many medical advances have been made while combating this pandemic. Such progress has further developed and expanded systems like telemedicine to provide care to those underserved and in need, while offering convenience to consumers across the United

²⁸ Ibid

²⁹ Ibid

³⁰ Ibid

³¹ Hsieh, Paul. "To Improve Telemedicine, Reform Outdated State Medical Licensing Rules." *Forbes Magazine*, 31 Mar. 2021.

³² Mehrotra, Ateev, et al. "Telemedicine and Medical Licensure - Potential Paths for Reform: NEJM." *New England Journal of Medicine*, 7 July 2021.

³³ Hsieh, Paul. "To Improve Telemedicine, Reform Outdated State Medical Licensing Rules." *Forbes Magazine*, 31 Mar. 2021.



States. As technology continues to evolve and innovate, so must our view of our medical systems and regulations. Only with reform and further deregulation can we ensure we maintain this momentum. Telemedicine support is at an all-time high and its feasibility has been well displayed. Medical professionals and consumers alike have expressed their desire for this success to continue. All the proposals above seek to enhance and nurture the potential our country has to push medical care into the 21st century. With states at the vanguard of these reforms, it will be up to state legislators to continue this progress past the end of the pandemic era.

