



Center for Connected
Health Policy

THE NATIONAL
TELEHEALTH POLICY
RESOURCE CENTER

TELEHEALTH POLICY WEBINAR SERIES

Crossing State Lines

OCTOBER 21 | 11:00am - 12:00pm PT

FREE WEBINAR

FALL 2022

CENTER FOR CONNECTED HEALTH POLICY (CCHP)

is a non-profit, non-partisan organization that seeks to advance state and national telehealth policy to promote improvements in health systems and greater health equity.

Disclaimers & Friendly Reminders



- Any information provided in today's webinar is not to be regarded as legal advice. Today's talk is purely for informational and educational purposes.
- Always consult with your organization's legal counsel.
- CCHP has no relevant financial interest, arrangement, or affiliation with any organizations related to commercial products or services discussed in this program.
- Today's webinar will be recorded and slides presented here will be made publicly available as resources at cchpca.org.
- Closed captioning is available.
- Please refrain from political statements or advertising commercial products or services during this webinar.

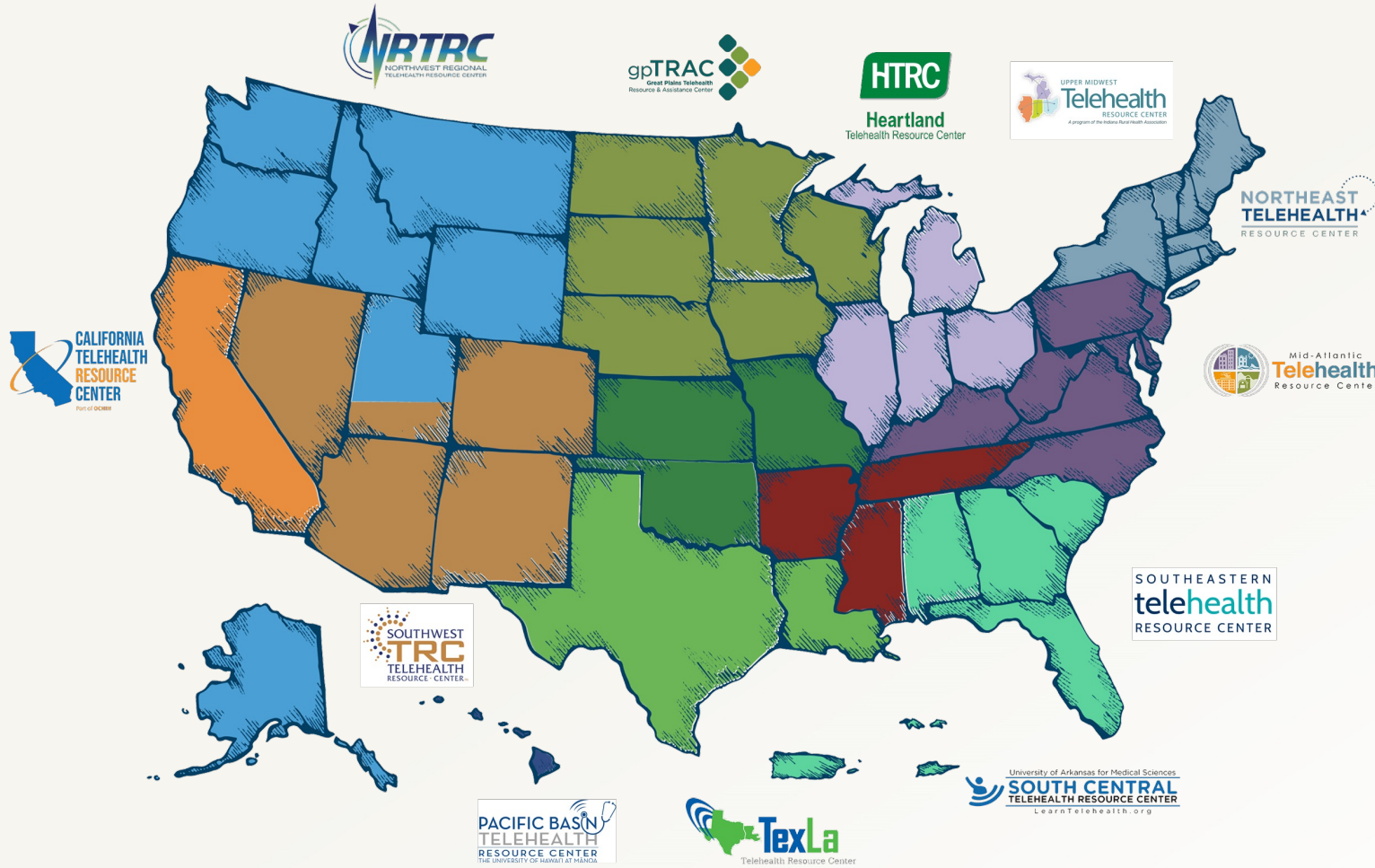


ABOUT CCHP

- Established in 2009 as a program under the Public Health Institute
- Became federally designated national telehealth policy resource center in 2012 through a grant from HRSA
- Work with a variety of funders and partners on the state and federal levels
- Administrator National Consortium of Telehealth Resource Centers
- Convener for California Telehealth Policy Coalition



NATIONAL CONSORTIUM OF TRCS



Telehealth Policy Webinar Series – Fall 2022



October 28, 2022: Federal Policy & Telehealth: What to Be Aware of Moving Forward

Image source: American Psychological Association

This webinar series was made possible by grant number GA5RH37470 from the Office for the Advancement of Telehealth, Health Resources and Services Administration, U.S. Department of Health & Human Services.



Overview of Today's Webinar

- **Telehealth enables providers to cross borders and distance with ease**
- **However, the borders are still there and each state is a separate jurisdiction in how telehealth-delivered services are utilized, reimbursed and regulated**
- **Cover the variety of policy issues that providers may encounter as they cross state lines using telehealth – including licensing, reimbursement, and practice requirements**
- **How those issues are addressed**
- **Potential solutions to issues**



Today's Webinar



Kathy Hsu Wibberly, PhD
Director
Mid-Atlantic Telehealth Resource Center



Kim Horvath, JD
Senior Attorney
American Medical Association



Jeremy Sherer
Partner
Hooper, Lundy & Bookman, PC





Mid-Atlantic
Telehealth
Resource Center

CCHP Telehealth Policy Webinar Series

October 21, 2022



Serving Delaware, Kentucky,
Maryland, New Jersey, North
Carolina, Pennsylvania, Virginia,
Washington DC and West Virginia

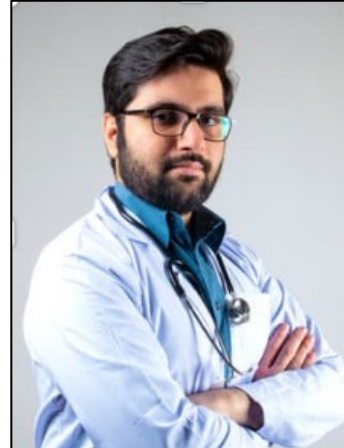
Telehealth & Practicing Across State Lines: Framing the Issues

Interstate Practice Realities



Name: **Lesley**
Age: **39**
Gender: **Female**

Has a child (age 3) with a rare genetic disease.



Name: **Dr. Naeem**
Age: **41**
Specialty: **Medical genetics/metabolic disorders**
License: **DC**

- Lesley lives in Virginia
- Lesley works in Maryland where her work site has child-care. Lesley also has family in Maryland who help with child-care.
- Lesley's child gets care at the Rare Disease Institute at Children's National in DC.



The Patient's Perspective

"How does this make sense? It's the same doctor. I can commute 20 minutes each way to get to his office to see him. I can drive 10 minutes across the border and do a telemedicine visit in a parking lot, but I can't do a telemedicine visit from my house or my work site or my parent's house."



- Drive (or take her child via Metro) into DC to be seen by Dr. Naeem



- Have her child seen via telemedicine by Dr. Naeem while she is at work or visiting family in Maryland



- Have her child seen via telemedicine by Dr. Naeem while she and her child are at home

The Clinician's Perspective



"It doesn't make sense. I just want to be able to offer the same array of services and level of care for all my patients. It shouldn't matter where they live."



- Patient lives in DC. Child is not feeling well. OK to offer telemedicine services.



- Patient lives in VA. Child is not feeling well. Ask family to bring child into the office.



- Patient lives in MD. Child is not feeling well. Ask family to bring child into the office.

The Clinician's Perspective



“My practice would offer telehealth to all patients if it weren't so complicated. When a patient calls asking for a telehealth appointment, there are too many steps involved...”

1. Where does the patient live / where will the patient be at the time of the visit?
2. Which type of provider does the patient need to see?
3. Does this provider type fall under an interstate compact? Is the patient's state participating in the compact? Is this provider licensed in the state where the patient will be?
4. What type of insurance coverage does this patient have? Does the payer cover telemedicine services? If so, which provider types, services and modalities are covered?
5. Will the payer cover telemedicine services with an out of state provider?
6. Are there consent requirements by the state where the patient will be or by the out of state payer?

“The list goes on...and when all the stars align, I can tell the patient yes...”

For More Information:




Kathy Hsu Wibberly, PhD

Director, Mid-Atlantic Telehealth Resource Center

UVA Center for Telehealth

Email: Kathy.Wibberly@virginia.edu

Phone: 434.906.4960

 Follow @katwibb

my **Linked in** profile

www.facebook.com/MATRC

www.MATRC.org



Mid-Atlantic
Telehealth
Resource Center



Licensure & Telehealth

Kim Horvath, JD
Senior Attorney, Advocacy Resource Center

Licensure and telehealth across state lines



Do I need a license to practice medicine in the state?



Is there is an exception to the licensure requirement?



How can I obtain a license to practice medicine via telehealth in another state?

Licensure and telehealth across state lines

- In most states the answer is “yes’
- Most states require physicians to be licensed in the state where the patient is located.

Do I need a license



- Emergency
- Physician-physician consultations
- Infrequent or irregular care
- Follow-up care with an established patient
- Specialty assessment
- Clinical trials

Does the care meet an exception?



- Traditional path
- Interstate Medical Licensure Compact
- Registration
- Special telehealth license
- Waiver
- Volunteer license

How can I obtain a license to practice in other states?





HLB

Cross State Practice Issues

CCHP TELEHEALTH POLICY
WEBINAR SERIES FALL 2022

JEREMY D. SHERER, ESQ.

Partner, Digital Health Co-Chair

Hooper, Lundy & Bookman, P.C.

TELEHEALTH SERVICES: CORE LEGAL CONSIDERATIONS

Scope of Practice and Legal Considerations

CHECKLIST



Licensure

Laws of state where patient is located govern.



Prescribing

Federal and state law are implicated.



Corporate Practice

Is the arrangement properly structured?



Modalities

How can a practitioner-patient relationship be established?



ID Verification, Consent

What does state law require?



Reimbursement

Commercial payors, Medicare, Medicaid.



Credentialing, Supervision

Are distant site physicians credentialed? Non-physician practitioners supervised?



Malpractice Coverage

Does it cover telehealth? What states?

Controlled Substances Prescribing Analysis

MULTIPLE SOURCES OF AUTHORITY

- **Federal Law:** The Controlled Substances Act as amended by the Ryan Haight Act prohibits prescribing controlled substances via telehealth unless one of a series of exceptions is satisfied.
- **Federal Registration:** Federal law also requires practitioners to hold a DEA controlled substances registration in any state in which a patient is located to whom the practitioner prescribes controlled substances.
- **State Law:** Most states also have controlled substances prescribing and dispensing laws which must be considered.
- **State Registration:** About half of the states require a separate state-level controlled substances prescribing registration, in addition to the DEA requirement above.



Jeremy D. Sherer

Co-Chair, Digital Health Practice

jsherer@health-law.com

(617) 532-2705

www.health-law.com

BOSTON | DENVER | LOS ANGELES | SAN DIEGO | SAN FRANCISCO | WASHINGTON D.C.

Attorney advertising. This presentation and related materials are not intended to serve as legal advice related to any individual situation. This material is made available by Hooper, Lundy & Bookman PC for educational and informational purposes only.

© Hooper, Lundy & Bookman PC 2021

Panel Q&A

Please submit questions using the Q&A function.



Thank You!



Kathy Hsu Wibberly, PhD
Director
Mid-Atlantic Telehealth Resource Center



Kim Horvath, JD
Senior Attorney
American Medical Association



Jeremy Sherer
Partner
Hooper, Lundy & Bookman, PC



Webinar Recordings and Resources

The screenshot shows the website's navigation bar with the CCHP logo and menu items: ABOUT, TELEHEALTH POLICY, PROJECTS, RESOURCES, CONTACT, and a SEARCH button. The main heading is 'Resources Results'. Below it, it says '14 Resource Results'. Two video results are visible:

- VIDEO: Current Status of Federal and California Telehealth Policy During COVID-19**
Date: December 15, 2020
CCHP's executive director reviews the current status of telehealth policy in 2020 and what lies ahead.
View the slides of the presentation [here](#).
- VIDEO: CCHP Animated Video on Telehealth Reimbursement Basics**
Date: December 11, 2020
CCHP knows that telehealth policy is complicated, especially when it comes to the way that reimbursement...

On the right side, there is a search bar with the placeholder text 'ENTER A SEARCH TERM...'. Below it is a 'Filter Resource Results' section with several checkboxes:

- Bill Analysis
- Fact Sheet
- Legislative / Regulatory Update
- News
- Newsletter
- Report, Publication & Policy Brief
- Video

There is a '> CITE CCHP' button next to the checkboxes and a 'GO' button at the bottom of the filter section.

Subscribe to CCHP's email listserve or stay tuned to CCHP's resources page for recordings of this webinar and presentation slide decks!

Remember to fill out the evaluation form!



Next Webinar: October 28, 2022 – Federal Policy & Telehealth: What to Be Aware of Moving Forward

John Gordon

Office of Evaluation and Inspections

Office of the Inspector General

U.S. Department of Health and Human Services

Mei Wa Kwong, JD

Executive Director

Center for Connected Health Policy

Carly L. Paterson, PhD, MPH, RN (*tentative*)

Associate Director, Healthcare Delivery and Disparities Research Program

Patient-Centered Outcomes Research Institute (PCORI)



EVALUATION FORM

Please don't forget to fill out your evaluation form!

Thank you and have a great day!

