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HOW STATES CAN REFORM HEALTH CARE TODAY

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CHAPTER 6

Unleash Technology

Maximize Telehealth's Potential

Naomi Lopez

KEY TAKEAWAYS

- Health care delivery often is not patient focused, leading to patients missing needed care, needless complications and inconveniences, and higher costs.
- Telehealth has received widespread public attention during the COVID-19 pandemic as a method for delivering some health care services to improve patient care and convenience, but most states have barriers that limit telehealth's potential.
- COVID-19-related telehealth flexibilities have started to expire, so policymakers need to act to update, improve, and expand their telehealth laws to remove barriers that prevent patient-centered care while evaluating and incorporating best practices to maximize telehealth's utility and limit potential abuse. Arizona's 2021 patient-centric telehealth reform provides a strong model for reform across the nation.

PROBLEM

When we think about telehealth, we probably imagine hailing a doctor from a smartphone or laptop to tell them what is ailing us. However, telehealth is not novel or new.

Telehealth has existed in some form since ancient times, when smoke signals and light reflection were used to communicate medical information, plagues, and other health events. A *Lancet* article published in 1879 discussed how telephones could reduce unnecessary office visits.[1] Nearly 150 years later, most Americans today have had some direct experience with telemedicine if they have ever used a phone—landline or mobile—to obtain medical advice.

Unfortunately, a myriad of restrictions have not only stunted the potential growth and adoption of widespread telehealth use to harness the full potential of modern technology, but these restrictions are also obstacles to meeting patients' health care needs when and where they need it. Fortunately, that has changed during the COVID-19 pandemic. Policymakers in Washington and governors across the country realized early in the crisis that there was an urgent need both to reduce face-to-face medical interactions to limit potential virus exposure and to preserve medical personnel resources. As a result, the federal government and states across the country took steps to make telehealth more available and accessible.[2]

COVID-19 Provided Temporary Relief from Some Telehealth Barriers

Under the federal health emergency declared beginning in January 2020, federal flexibilities allowed temporary reimbursement for a wide array of services under federal health care programs. This allowed many patients, particularly seniors on Medicare, to comply with stay-at-home rules and guidance while obtaining needed medical care and monitoring. Many private insurers followed suit, waiving copays for telemedicine visits for any reason. Other insurers waived cost sharing for all video visits through services such as CVS's MinuteClinic app and Teledoc.

The states also relaxed many of their rules that limited the availability of telehealth. These modified requirements included allowing out-of-state providers to provide telehealth services, eliminating the requirement for preexisting provider-patient relationships, suspending the requirement that a patient be in a medical facility in order to obtain an evaluation via telehealth, and allowing for both audio and video telehealth options.

Removing these obstacles has been a good policy during the pandemic and will remain so once it is over. The alternative was unattractive, as the avoidance or delay of care associated with the pandemic contributed to untold patient deterioration and, in some cases, death. According to the Centers for

Disease Control and Prevention (CDC), 4 in 10 adults reported delaying or avoiding care. Twelve percent reported avoiding urgent and emergency care.[3] As federal and state telehealth flexibilities granted under COVID-19 start to expire, state lawmakers can play an outsized role in unleashing the full potential of telehealth as an integral part of the nation's health care delivery system.

PROPOSAL

Despite all the suffering brought on by the COVID-19 pandemic, policymakers now have an important opportunity to learn from the successes of the temporary telemedicine flexibilities and make these policies permanent, improving health care access. Too frequently, lawmakers in many states have imposed one-size-fits-all rules that prevent medical innovation and restrict the availability of health care services to patients in need. But reform can be a rejection of an outdated and less flexible approach to health care delivery, allowing patients greater access to the care they need when they need it and at a lower price point.

These policy changes did just that for an Arizona mother, Claudia, and her daughter. Before COVID, Claudia's frequent, all-day drives to get needed medical treatment for her disabled daughter were simply a fact of life. Twice a week, Claudia drove three hours each way, plus frequent stops, to take her daughter from their Yuma, Arizona, home to Phoenix to get the regular medical visits she needed, but now, thanks initially to an executive order issued by Governor Doug Ducey in March 2020[4] and then later to a May 2021 law that was passed with strong bipartisan support,[5] Claudia's daughter is now able to see her doctor on a computer or a smartphone for most appointments. Now, the mother and daughter only need to make the trip to Phoenix about once a month.

These policies also improved the health care experience for others who were able to obtain care when they needed it and in a manner that met their family's needs and preferences. The ease of telehealth spurred its heavy usage, as evidenced by numerous studies documenting its increased use during COVID-19.[6,7]

Case Study: Arizona House Bill 2454

Arizona's HB 2454 is based on the idea that the patient should have greater options for medically appropriate care. This bill makes the patient the "nexus"

of care by creating an almost universal registration approach (as opposed to licensing) for out-of-state health care providers. Most state reforms narrowly apply to specific health care professionals. This reform takes a patient-centered approach, allowing almost any procedure or service that can be reasonably performed through telehealth technologies. The law also allows up to 10 telehealth encounters without provider registration under certain circumstances. In order to meet the needs of those patients who are in rural areas or do not have access to high-speed internet services (which would allow video consultations), telephone visits are allowed for some services.

Telehealth can be conducted in real time, where the provider and patient are interacting in real time. Telehealth can also be asynchronous, where, for example, a patient's x-ray is sent to a surgeon for evaluation. This "store and forward" modality allows patient evaluation that is not conducted in real time. Patients can also be monitored remotely, where, for example, a patient's heart monitor data is being sent to a provider, who is alerted when an anomaly occurs. All three telehealth modalities are allowed under the Arizona law.

The Arizona law requires that insurers reimburse providers at no less than the in-person rate for the same service unless the telehealth services are conducted through an insurer's telehealth platform. For services done outside an insurer platform, there is a requirement to provide reimbursement equal to that for an in-person visit but does not establish a minimum reimbursement.

Critics have expressed concern that a parity requirement will drive up spending and misuse and prevent lower-priced and more efficient telehealth providers from gaining market share. Supporters have argued that the economics of delivering care via telehealth often require significant investment on the part of providers.[8] Because of a lack of economies of scale, these costs can be more burdensome on smaller practices and could potentially discourage these practices from offering telehealth. In order to ensure that in-state, smaller providers would be more likely to participate (and not be undercut by out-of-state providers), Arizona's law includes a parity-lite approach that recognizes the challenges of telehealth investment while also encouraging the use of insurer platforms that avoid the parity requirement—alleviating the upfront telehealth investment costs for those providers least able to bear them.

While many have focused on how this law will add convenience for patients, the importance of this law is found in the ways that it will transform the health care delivery landscape, allowing the reimagining of how care is delivered. This reform makes the ground fertile for harnessing the

power of technology and medical expertise in ways that have not yet been fully realized or, in some cases, yet imagined.

Meeting Patients' Needs and Preferences

For some patients, the convenience of not having to schedule an appointment, wait days or weeks for a visit, take time off work, and be exposed to viruses or bacteria in waiting rooms and facilities with other sick patients is attractive for certain types of health care services.

Increasing Rural Care Access

Most states have many care options in larger urban areas, with some drawing patients from around the world. But these same states almost always face shortages of providers in rural areas (and specialists in all geographic areas), making it difficult for their residents to access needed care without travel and its associated expenses. Too often, patients with limited access either delay care or forgo it altogether, which may cause further deterioration in their health. Telehealth reform will make it easier for those patients—like Claudia's daughter—to get needed care more often and in a timely, convenient manner.

Flexibility for Hospital Redesign

Most hospitals lack the ability to hire a multitude of specialists, but telehealth reform provides an important pathway for medical facilities to provide needed expertise and assistance without needing to have it in-house. For example, should a patient in a rural area suffer a serious stroke, a community hospital may, in real time, be able to have the patient's vital statistics shared and monitored with a leading specialist at another facility across the country, obtaining medical guidance that previously had been unavailable. In this way, hospitals can retool their services and offerings in a way that better allows financial flexibility and can better meet the needs of patients.

Innovation in Insurer Policies

While telehealth reimbursement policies have been dramatically expanded during COVID-19, many government and private policies that limited

coverage of these services are on track to revert to the pre-COVID status quo, absent federal and state policy action. Referred to as the "telehealth cliff," many anticipate (at the time of this writing in late summer 2021) that patients will lose access to needed health care services that have been more widely available via telehealth. Once the public health emergency ends, this could occur both for patients in government programs and for those privately insured in states that have temporarily allowed telehealth expansion. For example, Florida, which prior to the COVID-19 health emergency had a strong telehealth law that allows a wide range of out-of-state health care providers in good standing to register with the appropriate state board to provide telehealth services to patients inside the state, is now facing this telehealth cliff for any additional flexibility that was not already in state law.

In June 2021, Governor Ron DeSantis allowed the expiration of Florida's public health emergency. As a result, the temporary flexibilities that allowed the telephonic delivery of care (to non-Medicare patients), for example, have now expired. A crucial question is whether the private insurers that reimbursed for telehealth services for primary care and specialist office visits during the public health emergency will continue to do so now that the emergency has officially expired in the state. This could serve as a bellwether to determine whether and how private insurers continue to provide coverage—and at what level—and whether medical practices continue to provide telehealth.

In the past, the policies that govern the federal health care programs have often been followed by private insurance policies.[9] Depending on whether and how Congress and states respond, telehealth reform may offer an opportunity to untether these coverage and payment decisions, encouraging new payment models that work better for families like Claudia's and encouraging long-overdue reform of payment models.

Allowing Seniors More Long-Term-Care Choice for Aging at Home

Given America's aging population and the looming impact that long-term-care costs will have on state budgets,[10] telehealth may help support older Americans who choose to age in place—at a lower cost to families and taxpayers. Take, for example, a telehealth pilot project at West Virginia University's Office of Health Affairs that targets older adults who have suffered a traumatic brain injury and wish to transition from an institution back into their communities.[11] Patients were able to avoid additional hospitalization

and reinstitution, which, according to the researchers, also contributed to patients' overall health and satisfaction.

Customization of Health Care Services

Prior to COVID, many consumers experienced telehealth through virtual office visits, but rather than a one-off experience, there is the potential to see telehealth layered on top of other health care services[12] and become part of one's usual health care experience.[13]

Telehealth holds enormous potential for health care access, and while there are no magic bullets to reform health care, reforms such as HB 2454 in Arizona and other previous reforms in Florida and Minnesota[14] can help the nation realize the potential of innovative, patient-centric medical care using already available technology and communication platforms.

OVERCOMING OBJECTIONS

For state lawmakers, the biggest challenge in achieving meaningful reform will involve a strong stakeholder engagement process. There will be disagreements over the impact telehealth reform has on patient safety; fraud and abuse; increased utilization, which can increase spending; coverage and payment parity mandates; patient consent; compliance with privacy laws; resolving disputes; and investments in broadband and other technology to facilitate telehealth.[15]

The resulting "proof of concept" from the states across the country that took steps to make telemedicine more readily available during the COVID pandemic demonstrates that many of the concerns around patient safety were largely unfounded. What remains unknown, however, is whether and how the new Arizona law contains sufficient safeguards to prevent fraud and abuse. This is an area that will require monitoring and evaluation.

Physician Practice Investment and Adoption

While telemedicine is not new, the cost of investing in and using an online platform, as well as a lack of insurance coverage for many telemedicine services, has deterred many medical practices from offering telehealth services. But as a direct result of the federal flexibilities around telemedicine, online platforms began to offer free trials of their services—and many practices

now have the revenue stream to continue using them, since these services are being reimbursed during the public health emergency resulting from the COVID pandemic.

For example, take Dr. Beverly Jordan of Enterprise, Alabama. At one point in the pandemic, she had seen about 30 patients via telemedicine in one week. While telemedicine was already available in the state, the cost of using an online platform, as well as a lack of insurance coverage for telemedicine services, made the expense and effort untenable for her medical practice. But as a direct result of the emergency flexibility of the Centers for Medicare and Medicaid Services (CMS), online platforms began offering free trials of their services. Insurers in Alabama followed the federal government's lead and began covering these visits.[16]

Improving Patient Care

No one believes that innovations such as telemedicine should substitute completely for in-person visits with a primary care provider, but they can be an important part of developing a long-term, more functional relationship between patients and their providers. In their initial review of the studies on the effectiveness and safety of telehealth, the Agency for Health Care Research and Quality (AHRQ) found that the evidence for effective patient care is strong, especially for the remote management of chronic health conditions. The report confirms that telehealth improves health outcomes, utilization, and cost of care for a range of chronic diseases and illnesses, including heart failure, diabetes, depression, obesity, asthma, and mental health conditions. In addition, for nonurgent issues, the likelihood of diagnostic error appeared to be roughly comparable to that for face-to-face encounters.[17]

States now have their own proofs of concept, as well as those from most states across the country. State lawmakers now face the choice of continuing to operate an antiquated business model or building on the experience brought on by the COVID pandemic. The question for lawmakers is whether they are willing to leapfrog decades of slow adoption of the promises of the twenty-first century.

CONCLUSION

The COVID-19 crisis has demonstrated the benefits of telehealth—and has shown how irrational the past rules limiting telehealth were. The benefits

are real for moms like Claudia, but it should not have taken a pandemic to transform health care for the better for families like Claudia's, and expanded telehealth options should not go away when COVID-19's threat subsides, as telehealth improves everyday care and better prepares our health system for any future pandemics.

Telehealth holds enormous potential for health care access, and while it is not a health system cure-all, state lawmakers across the nation should embrace and build on reforms like Arizona's in order to realize the potential of innovative, patient-centric medical care using already available technology and communication platforms.[18] This is exactly the kind of bold thinking and action that state lawmakers across the country have the authority—and obligation—to embrace and pursue.

ABOUT THE AUTHOR

Naomi Lopez is director of healthcare policy at the Goldwater Institute. Her work focuses on a broad range of health care issues, including the Right to Try, off-label communications, pharmaceutical drug pricing, supply-side health care reforms, the Affordable Care Act, Medicaid, and twenty-first-century health care innovation. Lopez has 25 years of experience in policy and has previously served at organizations including the Illinois Policy Institute, the Pacific Research Institute, the Institute for Socioeconomic Studies, and the Cato Institute. A frequent media guest and public speaker, Naomi has authored hundreds of studies, opinion articles, and commentaries. She holds a BA in economics from Trinity University in Texas and an MA in government from Johns Hopkins University.

ENDNOTES

1. Thomas S. Nesbitt, *The Evolution of Telehealth: Where Have We Been and Where Are We Going?*, Board on Health Care Services, Institute of Medicine (Washington, DC: National Academies Press, 2012), https://www.ncbi.nlm.nih.gov/books/NBK207141/.
2. Federation of State Medical Boards, "U.S. States and Territories Modifying Requirements for Telehealth in Response to COVID-19," last updated June 23, 2021, https://www.fsmb.org/siteassets/advocacy/pdf/states-waiving-licensure-requirements-for-telehealth-in-response-to-covid-19.pdf.
3. Centers for Disease Control and Prevention, "Delay or Avoidance of Medical Care Because of COVID-19–Related Concerns—United States," *Morbidity*

and Mortality Weekly Report (MMWR), June 2020, https://www.cdc.gov/mmwr/volumes/69/wr/mm6936a4.htm.

4. Governor Douglas A. Ducey, State of Arizona, Executive Order 2020-15 (rescinded), Expansion of Telemedicine, March 11, 2020, https://azgovernor.gov/executive-orders.
5. Arizona House Bill 2454, https://www.azleg.gov/legtext/55leg/1R/laws/0320.pdf.
6. See, for example, Preeti Malani, Jeffrey Kullgren, Erica Solway, Lorraine Buis, Dianne Singer, and Matthias Kirch, "Telehealth Use among Older Adults before and during COVID-19" (University of Michigan National Poll on Healthy Aging, University of Michigan, Ann Arbor, MI, August 2020), https://www.healthyagingpoll.org/report/telehealth-use-among-older-adults-and-during-covid-19.
7. FAIR Health, "Monthly Telehealth Regional Tracker," https://www.fairhealth.org/states-by-the-numbers/telehealth.
8. See, for example, Neil Ravitz, Sean Looby, Calvin Jordan, and Andrew Kanoff, "The Economics of a Telehealth Visit: A Time-Based Study at Penn Medicine," Health Care Financial Management Association, April 26, 2021, https://www.hfma.org/topics/financial-sustainability/article/the-economics-of-a-telehealth-visit--a-time-based-study-at-penn-.html.
9. Jeffrey Clemens and Joshua D. Gottlieb, "In the Shadow of a Giant: Medicare's Influence on Private Physician Payments," *Journal of Political Economy* 125, no. 1 (February 2017): 1–39, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5509075/.
10. Teresa Wiltz, "Long-Term Care Costs Are Prohibitively Expensive. States Are Taking Notice," Governing, July 25, 2019, https://www.governing.com/archive/sl-long-term-care-insurance.html.
11. "Telehealth Pilot Program Shows Promise in Helping Former Nursing Home, Long Term Care Facility Residents Remain Safe and Healthy in Their Homes," *WVU Today*, June 30, 2021, https://wvutoday.wvu.edu/stories/2021/06/30/telehealth-pilot-program-shows-promise-in-helping-former-nursing-home-long-term-care-facility-residents-remain-safe-and-healthy-in-their-homes.
12. For a fascinating discussion of the issue, see Helen Leis, Tom Robinson, Ran Strul, and Julia Goldner, "Access Will Become Commoditized," Oliver Wyman Insights, *Health Innovation Journal* 4 (October 2020), https://www.oliverwyman.com/our-expertise/insights/2020/oct/health-innovation-journal/access-will-become-commoditized.html.
13. Olivia Webb, "The Next Wave of the Telehealth Market Is Here," Acute Condition, March 4, 2021, https://www.acutecondition.com/p/the-next-wave-of-the-telehealth-market.
14. Since 2015, Minnesota has had one of the better telemedicine laws in the country. It requires that physicians simply register with the board, provide some basic information about their license, and alert the board of any restrictions or

negative licensing actions they have received at any time. Doctors must pay a $75 annual fee, but otherwise they can focus on delivering care to patients. See Minnesota Revisor of Statutes, "Minnesota Statutes 147.032: Interstate Practice of Telemedicine," https://www.revisor.mn.gov/ statutes/cite/147.032.

15. For a discussion of these issues, see Gabriela Weigel, Amrutha Ramaswamy, Laurie Sobel, Alina Salganicoff, Juliette Cubanski, and Meredith Freed, "Opportunities and Barriers for Telemedicine in the U.S. during the COVID-19 Emergency and Beyond," Kaiser Family Foundation Issue Brief, May 11, 2020, https://www.kff.org/womens-health-policy/issue-brief/opportunities-and-barriers-for-telemedicine-in-the-u-s-during-the-covid-19-emergency-and-beyond/.
16. Goldwater Institute, *Revitalizing America: A Legislative Guide to Recovering from Coronavirus*, July 2020, https://goldwaterinstitute.org/wp-content/uploads/2020/07/Goldwater-Revitalizing-America-7-22-2020.pdf.
17. Agency for Health Care Research and Quality (AHRQ), "Telediagnosis for Acute Care: Implications for the Quality and Safety of Diagnosis," Issue Brief No. 2, AHRQ Publication No. 20-0040-2-EF, August 2020, https://www.ahrq.gov/sites/default/files/wysiwyg/patient-safety/reports/issue-briefs/Telediagnosis-brief2.pdf.
18. For a more general discussion of reform considerations for state lawmakers, see L. Block and K. Ruane, *The Future of State Telehealth Policy*, National Governors Association Center for Best Practices, November 2020, https://www.nga.org/center/publications/the-future-of-state-telehealth-policy/.