



To: House Health and Human Services

From: Rachelle Colombo
Director of Government Affairs

Date: February 16, 2017

Re: HB 2206; relating to the practice of telehealth

The Kansas Medical Society appreciates the opportunity to submit comments relating to the subject of telehealth and telemedicine. Because there are two bills of a similar nature that address the subject, we have developed principles relating to the practice of telemedicine that we believe should be incorporated into any legislative proposals. Telemedicine is a delivery model that already exists and is currently unregulated in Kansas. Physicians often communicate with their patients telephonically and electronically in the process of diagnosis and treatment after developing a patient-physician relationship. But as we have moved into a more global, technological world and new tools have developed for communication and connection, telemedicine has morphed into an emerging delivery model that would benefit from comprehensive and consistent consideration.

Telemedicine is a tool that can and should enhance patient-physician relationships, but never at the expense of standard of care. The development of regulations around this facet of medicine should neither hamper the current existence of intrastate telemedicine, nor set an inconsistent bar for interstate telemedicine. To that end we believe the following principles should be considered:

- Physicians or other clinicians providing telemedicine services to Kansans must be licensed by the appropriate Kansas state regulatory agency and comply with all applicable scope of practice laws and regulations.
- Telemedicine must be provided consistent with recognized standards of practice expected of in-person encounters, and be medically necessary and appropriate for the patient's medical needs.
- With certain exceptions consistent with recognized standards of care, the telemedicine professional must be able to conduct an appropriate face-to-face examination prior to diagnosis or treatment via a real-time, interactive audio or video system (if a face-to-face encounter would otherwise be required if the same service were not delivered via telemedicine).
- There should be parity in insurance coverage and reimbursement for telemedicine services as compared to the same service provided in-person, and insurers should be prohibited from excluding coverage for a service solely because the service is provided via telemedicine.
- Patient informed consent, privacy and confidentiality must be protected at every stage of the telemedicine process.
- Physicians or other clinicians providing telemedicine services must obtain an appropriate medical history and properly document the telemedicine encounter.
- Physicians or other clinicians providing telemedicine services should take steps to promote continuity of care, such as with appropriate communication with the patient's primary care physician or other treating physicians for necessary follow-up.
- Because of issues related to the widespread use of opioids, the prescribing of controlled substances via telemedicine should be subject to regulations adopted by the Healing Arts Board, after consultation with the Pharmacy Board.

HB 2206 defines and regulates the practice of telemedicine in a manner largely consistent with these principles. The bill is aimed at parity, but stops short of a mandate. As such, confusion could arise over whether telemedicine is covered and will be reimbursed. The language in Section 1 (e)(1) 2, is unclear and seems to contradict the requirement for licensure in the state where the patient resides. We would suggest striking this. The bill should clearly state that the licensure requirement is specific to the patient's state of residence, not the physician's residence. This will ensure that regardless of the method of delivery, Kansas patients are protected by our state licensure requirements upholding a consistent standard of care. Additionally, we believe that it would be wise to include language allowing for rules and regulations to be promulgated regarding opioid prescriptions to ensure proper prescribing and reporting.

With these additions and clarifications, we support HB 2206 and those efforts to carefully define and regulate the practice of telemedicine. Thank you.