



Telebehavioral Health and State Actions

HHS Chairs Meeting | June 7, 2022

- Telebehavioral Health State Actions
 - Mei Kwong, executive director, Center for Connected Health Policy
- Table Discussions
- Pair and Share
- Large Group Report Out



Agenda

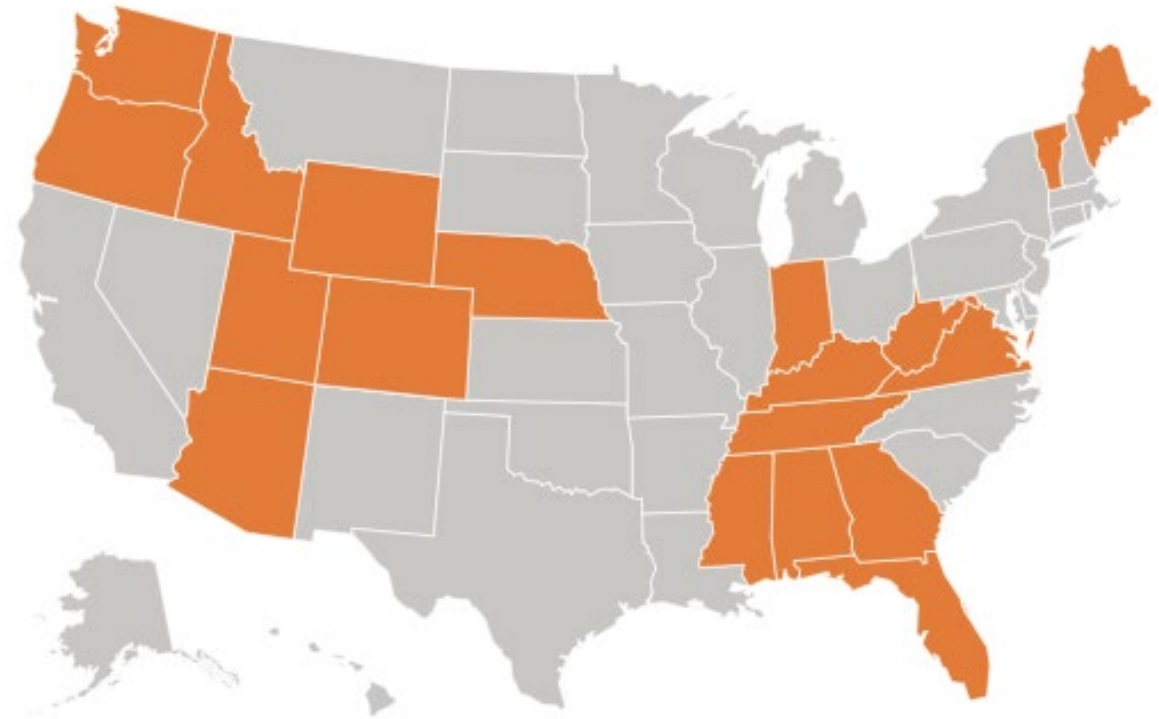
Raise your hand if your
state enacted
legislation related to
telehealth in 2022.



Put those hands in the air!

Enacted Telehealth Legislation in 2022

- Additional Telehealth Modalities
- Audio-Only Telephone Consults
- Cross State Licensing
- Medicaid
- Online Prescribing
- Private Insurance
- Provider Types



Source: [Health Costs, Coverage and Delivery State Legislation](#)

TELE- MENTAL/BEHAVIORAL HEALTH

June 7, 2022
NCSL



Center for Connected
Health Policy

THE NATIONAL
TELEHEALTH POLICY
RESOURCE CENTER



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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

- **Any information provided in today's talk is not to be regarded as legal advice. Today's talk is purely for informational purposes.**
- **Always consult with legal counsel.**
- **CCHP has no relevant financial interest, arrangement, or affiliation with any organizations related to commercial products or services discussed in this program.**



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



TELEHEALTH POLICY CHANGES IN COVID-19

FEDERAL

MEDICARE ISSUE	CHANGE
Geographic Limit	Waived
Site limitation	Waived
Provider List	Expanded
Services Eligible	Added additional 80 codes
Visit limits	Waived certain limits
Modality	Live Video, Phone, some srvs
Supervision requirements	Relaxed some
Licensing	Relaxed requirements
Tech-Enabled/Comm-Based (not considered telehealth, but uses telehealth technology)	More codes eligible for phone & allowed PTs/OTs/SLPs & other use

- DEA – PHE prescribing exception/allowed phone for suboxone for OUD
- HIPAA – OCR will not fine during this time

STATE (Most Common Changes)

MEDICAID ISSUE	CHANGE
Modality	Allowing phone
Location	Allowing home
Consent	Relaxed consent requirements
Services	Expanded types of services eligible
Providers	Allowed other providers such as allied health pros
Licensing	Waived some requirements

- Private payer orders range from encouragement to cover telehealth to more explicit mandates
- Relaxed some health information protections



MENTAL & BEHAVIORAL HEALTH

- **Specialty/conditions where telehealth most likely covered**
- **Long history of telehealth efficacy in providing services**
- **Extreme shortage of these services in many regions**

DATA

- **First year of pandemic, in Medicare beneficiaries used telehealth for 43% of all behavioral health service**
- **14.1 million services via telehealth in Medicare first year of pandemic**
- **“the use of telehealth may improve access, especially for beneficiaries facing barriers to care.”**

Office of the Inspector General, “Telehealth Was Critical for Providing Services to Medicare Beneficiaries During the First Year of the COVID-19 Pandemic”

OFFICE OF THE INSPECTOR GENERAL

- [OIG Report – States Report Multiple Challenges With Using Telehealth to Provide Behavioral Health Services to Medicaid Enrollees](#)
- Study pre-dated the pandemic (Jan and Feb 2020).
- Reported challenges by states:
 - Lack of training for providers & enrollees
 - Limited connectivity (providers & enrollees)
 - Protecting privacy and security
 - Costs of infrastructure
 - License reciprocity
 - Informed consent

TEMPORARY FEDERAL TELEHEALTH CHANGES

MEDICARE

- Waived statutory requirements
- Series of administrative changes

PRESCRIBING

- Prescribing during PHE w/o meeting limited exceptions

HIPAA

- OCR exercise discretion
- Opened up the possibility of using other modalities



MOST COMMON TEMPORARY STATE TELEHEALTH CHANGES

REIMBURSEMENT

- Medicaid
- Commercial Payers

LICENSURE/CONSENT

- Relaxed licensure requirements
- Timing and types of consent (allowed to be oral and expanded when can obtain it)

RE-DEFINING TELEHEALTH

- Inclusion of audio-only



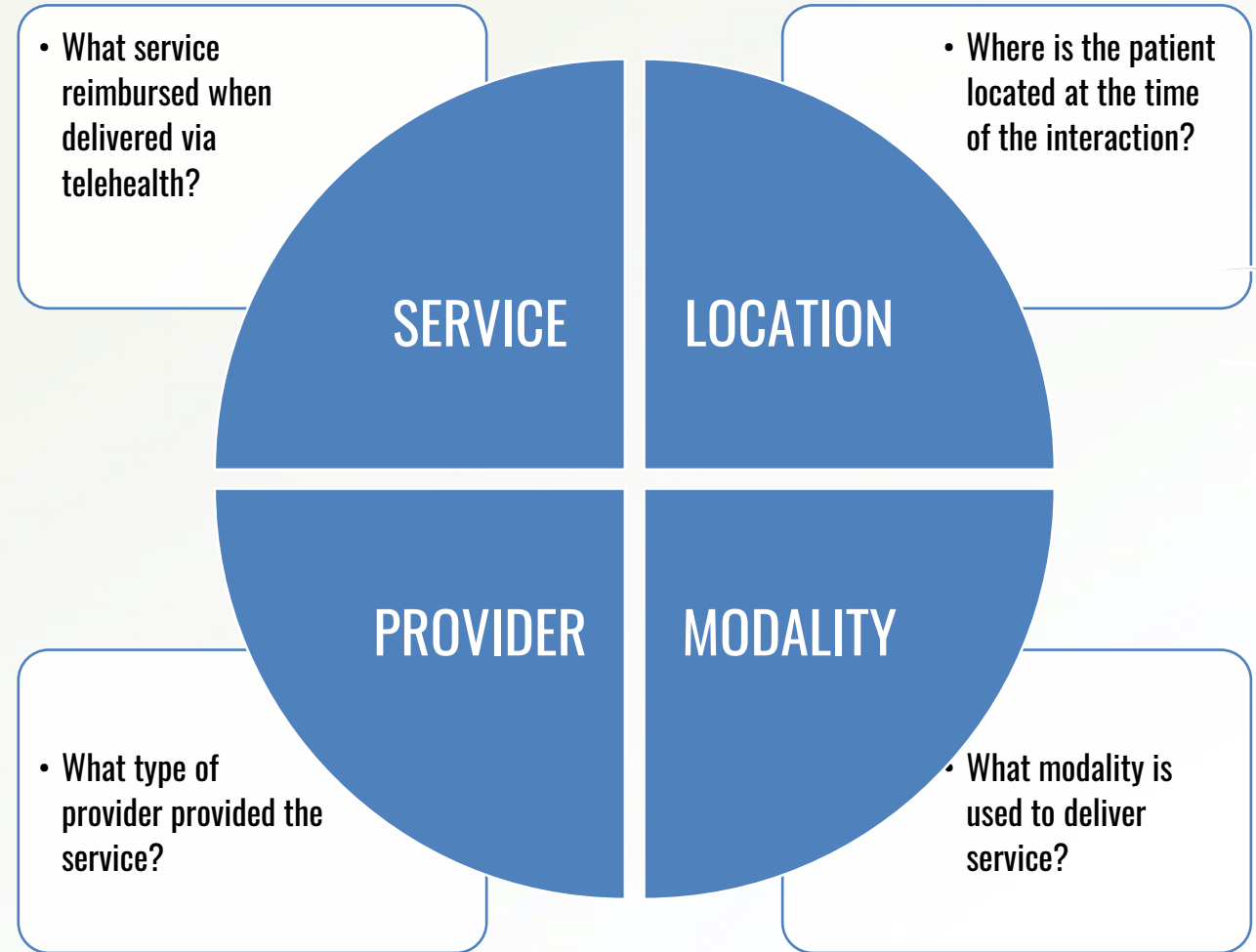
OFFICE OF THE INSPECTOR GENERAL

- **Reported challenges by states:**
 - **Lack of training for providers & enrollees**
 - **Limited connectivity (providers & enrollees) <- Allowed audio-only**
 - **Protecting privacy and security <-Feds and some states relaxed**
 - **Costs of infrastructure**
 - **License reciprocity <- Licensure eased**
 - **Informed consent <- Expanded types of consent and timing**

TELEHEALTH REIMBURSEMENT POLICY – 4 AREAS

➤ **Most established telehealth policies on reimbursement are made up of**

- 4 typical elements
- Most limitations are around these 4 elements



LICENSURE

COMPACTS

- Most popular option, numerous compacts

RECIPROCITY

- While states may have on the books reciprocity laws, few seem to actually be used

REGISTRY/SPECIFIC LICENSE

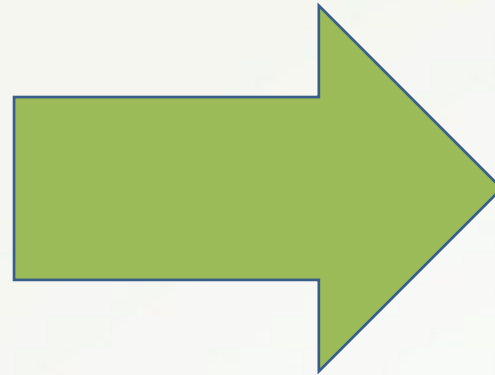
- Florida & Arizona created a registry
- Telehealth licenses



RE-DEFINING TELEHEALTH

PRE-PANDEMIC

Most definitions for telehealth/telemedicine excluded audio-only or telephone as a modality in which to deliver services



COVID-19

States are changing their definitions to include “audio-only” as a modality that falls under telehealth/telemedicine

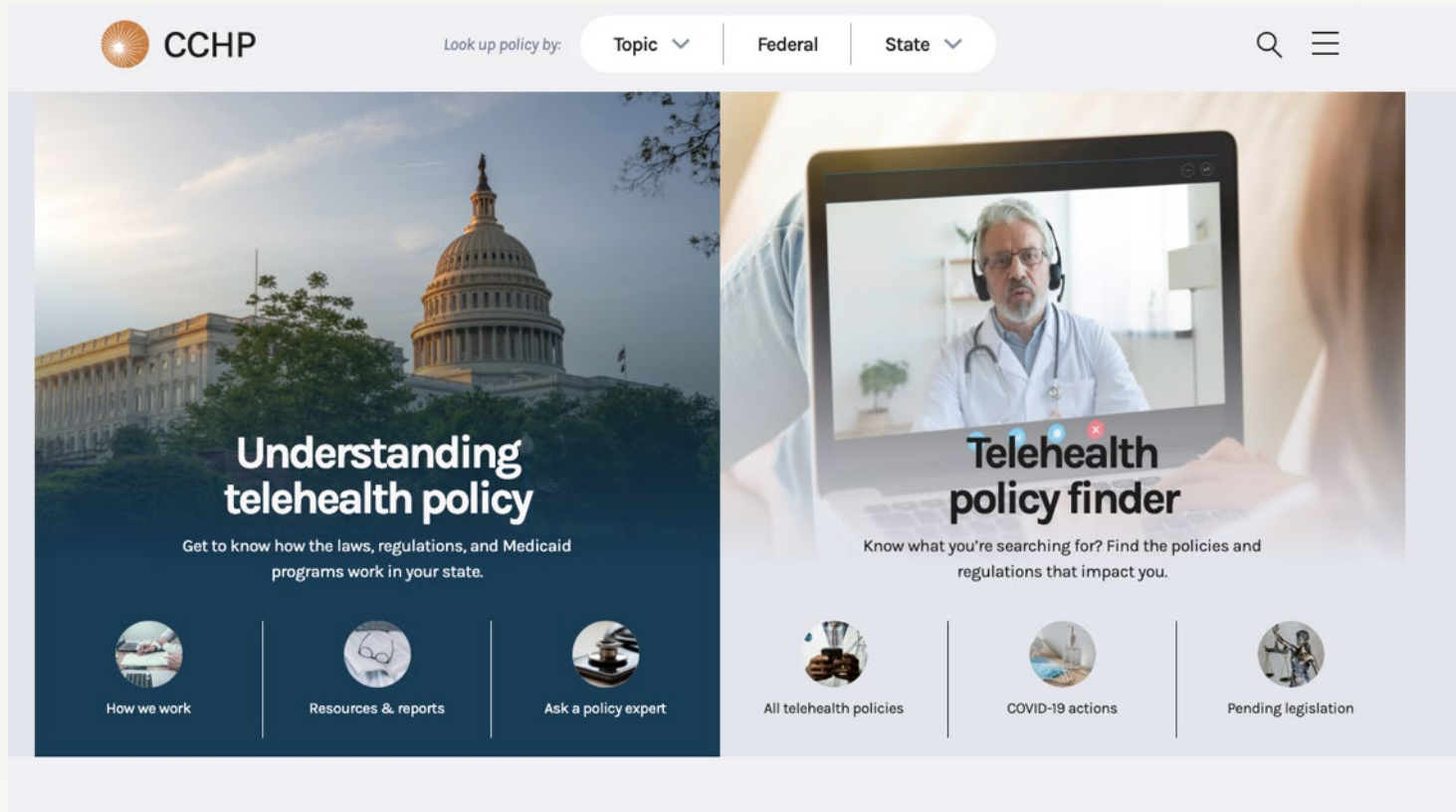
CONSENT, PRIVACY & INFRASTRUCTURE

- **Consent and privacy relaxations rolling back**
- **Infrastructure continues to be a significant topic of discussion**
 - **Federal govt investing in some infrastructure with funding to build out connectivity and subsidy programs**
 - **Some states have invested in broadband**
 - **However, this is a long-term issue, and will not be solved in 12-24 months**
- **One topic states flagged where there has been little attention is the provider/patient training.**

STATE TELEHEALTH 2021

- **47 states passed 201 bills related to telehealth**
 - **Most popular issues were private payer reimbursement, Medicaid reimbursement, cross state licensing**
- **Policies impacting specific professions were also significantly up**
 - **Online prescribing**
 - **Specific language that telehealth was allowed for certain providers**

➤ CCHP Website – cchpca.org



➤ Subscribe to the CCHP newsletter at cchpca.org/contact/subscribe





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Thank You!

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- What action has your state taken related to telebehavioral and telemental health since the COVID-19 pandemic?
- What sort of data or information has your state gathered on telebehavioral health utilization, outcomes, efficacy, etc.?
- What challenges does your state face related to expanding access to telebehavioral and telemental health services?



Table Discussions (Round Robin Style)

- Find someone in the room you have not talked to today to discuss any of the following:
 - Something interesting you learned from another state
 - Questions you still have
 - Actions you plan to take (e.g., stakeholder engagement, legislative action, etc.)



Pair and Share



NCSL Resources

- [Health Costs, Coverage and Delivery State Legislation](#)
- [Bringing the Benefits of Telehealth to Rural and Underserved Patients](#)
- [Telehealth Explainer Series: A Toolkit for State Legislators](#)

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