Telehealth, COVID-19 and Looking Ahead

BY JACK PITSOR

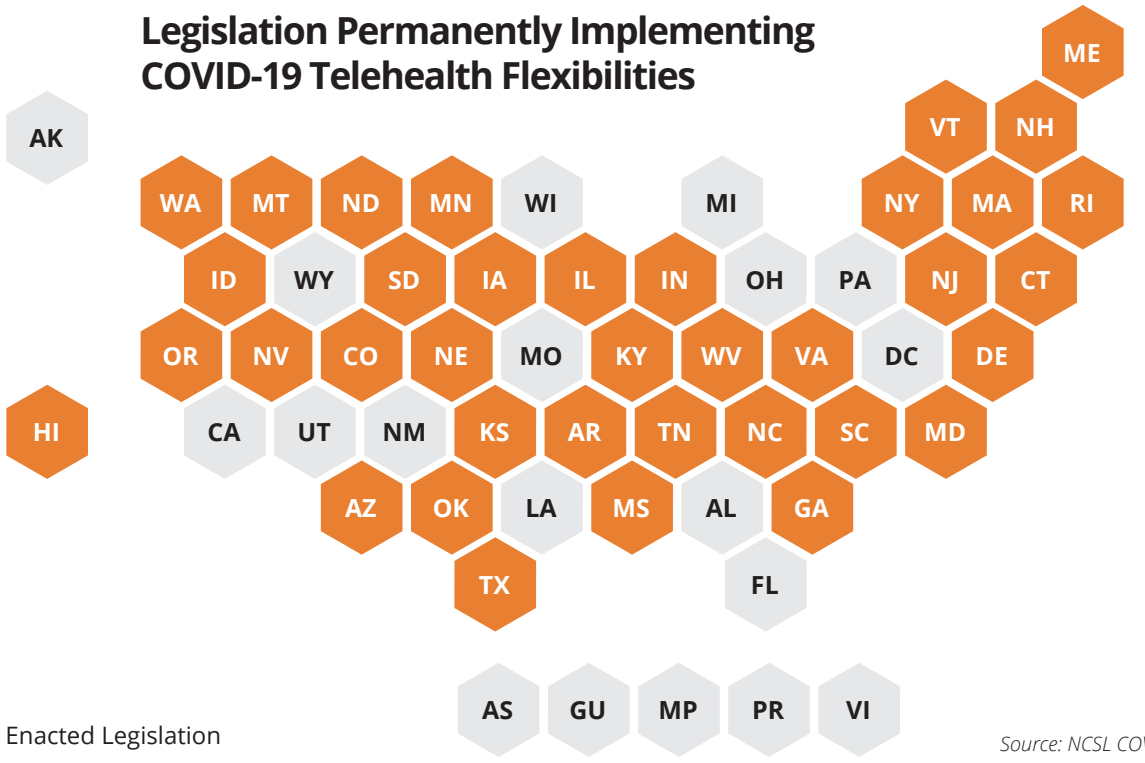
Seeking ways to support health care workers, limit in-person contact and ensure continuity of care, state policymakers pursued numerous actions to leverage telehealth during the coronavirus pandemic. All 50 states, D.C. and Puerto Rico modified their telehealth policies in response to COVID-19. However, many of these changes were tied to state-of-emergency declarations and thus temporary for the duration of the pandemic.

As the pandemic slows, legislators are considering which temporary changes should be made permanent.

At least 37 states enacted over 51 bills to make certain temporary flexibilities permanent after the COVID-19 public health emergency. Beyond permanent changes, some states temporarily extended telehealth flexibilities after the public health emergency ends or established special committees to assess telehealth best practices. Additionally, some states took non-legislative action to keep telehealth changes permanent.

3 Things to Know:

1. All 50 states, D.C. and Puerto Rico **implemented some kind of telehealth policy change** during the pandemic.
2. **At least 37 states enacted over 51 bills to make certain temporary flexibilities permanent** after the COVID-19 state emergency.
3. **Some states took non-legislative action**—through governor's offices, Medicaid agencies, licensing boards and other state agencies—to make COVID-related changes permanent.



Source: NCSL COVID-19 Database

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NATIONAL CONFERENCE OF STATE LEGISLATURES

JULY 2021

Telehealth Policies Made Permanent Post-COVID

Legislation making COVID-19 flexibilities permanent touched on a multitude of telehealth policy areas. These include Medicaid coverage, private insurance coverage, audio-only telephone consultations, cross-state licensing and several more.

Medicaid Coverage

Twenty-seven states enacted legislation enhancing Medicaid coverage for services delivered via telehealth. For example, Arkansas expanded the list of providers eligible to conduct counseling through telehealth for Medicaid recipients and required coverage for group therapy, crisis intervention services, substance use assessment and other telebehavioral health services.

Private Insurance Coverage

Twenty-seven states enacted bills related to private insurance coverage for telehealth. New Hampshire required insurers to reimburse for telehealth on the same basis as in-person care (i.e., payment parity). Iowa permanently implemented payment parity for mental health services delivered through telehealth.

Audio-Only Telephone Visits

At least 29 states increased access to audio-only telephone visits, which were less common prior to the pandemic. For example, after convening a work group to study permitting telephone consultations after the public health emergency, Vermont required private health plans and Medicaid to cover medically necessary, clinically appropriate audio-only telephone consults to the same extent as in-person care. The legislation also requires the state to study the effects of telephone visits on access to care, utilization, quality of care, patient satisfaction, health care costs and value-based payment arrangements.

Cross-State Licensing

After streamlining the licensure process for out-of-state providers using telehealth during the pandemic, at least five states—Arizona, Kansas, New York, Tennessee and West Virginia—permanently allowed providers licensed in other states to deliver services to in-state residents under certain conditions (separate from provider-specific licensure compacts).

Originating/Distant Site

Many states permanently modified requirements relating to where a patient could receive services via telehealth (i.e., originating site) or where providers could deliver those services (i.e., distant site). For example, New York removed originating site restrictions, allowing patients to use telehealth wherever they are located. Mississippi expanded its definition for both originating and distant site for its Medicaid program to include federally qualified health centers, rural health clinics and community mental health services.

Provider-Patient Relationship

Some states, such as Hawaii, Montana and South Dakota, authorized providers to establish a provider-patient relationship through telehealth under certain circumstances, rather than requiring an initial in-person visit.

Prescribing via Telehealth

A handful of states waived certain restrictions on prescribing medications through telehealth. For example, Virginia authorized providers with an established provider-patient relationship, including one established through telehealth, to issue a prescription for certain controlled substances in accordance with federal law.

The Wait-And-See Approach

While many states have taken legislative action to make changes permanent, some have temporarily extended certain flexibilities beyond the public health emergency or established committees or working groups to further evaluate telehealth policies for the long-term.

Arizona enacted several permanent changes related to telehealth, including payment parity and interstate licensing. The state also established a telehealth advisory committee to develop best practices and guidelines related to telehealth, including the effectiveness of certain telehealth modalities and populations best served by telehealth.

Connecticut enacted legislation to extend certain COVID-related changes for two years until June 2023, including requiring payment parity and expanding the list of providers eligible to use telehealth. State lawmakers also enacted separate legislation to permanently require Medicaid coverage for audio-only telephone visits.

Vermont created the "Facilitation of Interstate Practice Using Telehealth Working Group" and charged the work group to study the effects of streamlining interstate licensing requirements for out-of-state providers using telehealth.

Non-Legislative Action

Some states have taken non-legislative actions—through governor's offices, Medicaid agencies, licensing boards and other state agencies—to make COVID-related changes permanent.

The California Department of Health Care Services, which operates the state's Medicaid program, released a list of several COVID-related telehealth modifications it plans to make permanent—including payment parity for services delivered via telehealth in real-time and coverage for audio-only telephone visits.

Idaho's governor signed an executive order directing state agencies to make more than 150 emergency rules permanent, including several related to telehealth. Changes included streamlining the licensing process for out-of-state providers and allowing providers to use platforms like FaceTime or Zoom.

Ohio Department of Medicaid permanently expanded coverage for different methods of telehealth (e.g., audio-only and remote patient monitoring), authorized different types of providers to deliver services via telehealth, and lifted originating and distant site restrictions. The rules also increased the number and types of services that could be delivered through telehealth, including virtual check-ins by a physician or other provider, physical therapy, additional behavioral health services and more.

About the Telehealth Explainer Series

As state leaders seek to capitalize on the potential for telehealth to support the health care workforce and improve access to care, a number of state policy issues may arise. This new series of explainer briefs addresses six aspects of telehealth to better inform policymaking for state lawmakers.

This resource is supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) as part of an award totaling $853,466 with 100% funded by HRSA/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by HRSA, HHS, or the U.S. Government.

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