



June 16, 2014

The Honorable Joe Pitts  
Chairman  
Subcommittee on Health  
Committee on Energy and Commerce  
2125 Rayburn House Office Building  
Washington D.C. 20515

The Honorable Frank Pallone  
Ranking Member  
Subcommittee on Health  
Committee on Energy and Commerce  
2322A Rayburn House Office Building  
Washington D.C. 20515

Dear Chairman Pitts and Ranking Member Pallone:

Health IT Now is writing in response to the request you made at the Health Subcommittee Hearing on May 1 to provide ideas on how to transform health care through telemedicine. We applaud your leadership in holding the hearing and in gathering stakeholder input. Our hope is that you will take these ideas and advance legislation that makes it easier and less costly for providers to deliver telemedicine services to patients.

Health IT Now is a broad based coalition of patient groups, provider organizations, employers and payers that supports incentives to deploy health information technology to improve quality, outcomes, and patient safety and to lower costs.

In the past decade, the practice of medicine has changed dramatically. The convergence of medical advances, health information technology, and a nation-wide broadband network is transforming the delivery of care by bringing the health care provider and patient together virtually -- from any location to any location. Telehealth is becoming a widely accepted practice across the United States and momentum for the use of telehealth is accelerating. By removing barriers such as distance, mobility, geographic, and time constraints, establishing common standards for technology enable care delivery, and reforming licensure and payment models, telehealth has the ability to transform health care delivery by improving patient access to quality care while at the same time reducing costs and enhancing physician job satisfaction.

As innovation in telehealth progresses, it is increasingly obvious that federal and state policies that promote a patchwork of burdensome regulations must be updated to capitalize on the promise of technology's care improvement and cost reducing potential. For example:

- Medicare coverage and reimbursement for fee-for-service telemedicine is constrained by the statute, and cannot evolve unless Congress changes the law.
- For Medicare ACOs, HHS has the authority to expand the use of telemedicine by waiving the restrictions in the law, but has not chosen to do so.

- Twenty states and the District of Columbia have passed mandates for private insurance coverage of telehealth services, and 46 states offer Medicaid reimbursement for some services provided via telehealth. There is no consistency, however, in how these states define or regulate the practice of technology.

Health IT Now stresses the importance of three key issues to address these barriers and to transform the health system:

### **Licensure Reform:**

Currently, providers are required to be licensed in each state in which they may provide care to a patient according to state law and practice. In a mobile society and with technology advances, a provider is prohibited from treating their patient unless licensed where the patient may be at that time – limiting the provider’s ability to coordinate their patient’s care. In 2011, Congress changed licensure standards for providers in the Department of Defense’s health care program (TRICARE) because it sought uniformity in standards across a *federal* program. We believe Congress can and should do the same in Medicare, a *federal* program, to address the lack of uniformity in state practice for Medicare beneficiaries while retaining state rights to set licensure standards for other programs.

We strongly encourage the Subcommittee to:

- Mark-up and pass H.R. 3077, the TELEhealth for MEDicare (TELE-MED) Act of 2013. The bill was introduced by Representatives Nunes and Pallone, and would increase access to healthcare by allowing Medicare providers to electronically make their expertise available across state boundaries to their patients through telemedicine without obtaining another license. It has the support of 67 medical provider groups, patient organizations, employers, and insurers.
- Mark-up and pass H.R. 1274, the Access to Quality Diabetes Education Act of 2013, to recognize state licensed (or authorized) and certified diabetes educators and health care professionals and to issue a study of the barriers for Medicare beneficiaries with diabetes in accessing diabetes services under the Medicare program.
- Pass legislation to commission a public-private task force to develop recommendation and timelines to addressing the state licensure issue, which may include multi-state compacts, and to report the recommendations within 90 days.

### **Common Telemedicine Definition and Guidelines across all jurisdictions:**

The Federal government and states have yet to agree on a common definition of telemedicine services. For example, CMS focuses on services defined as two-way, real time communication between a provider and a patient at a remote health care site. CMS does not consider telephone, email or fax to be telemedicine services. Some states have adopted the CMS definition, while others have different standards based on scope of practice, facility type, insurance rules, and service type (prescribing, diagnosis and consultation, for example). Because the definition of telemedicine varies by state, providers are unsure of whether the services they provide via

telemedicine is compliant with state law. Patients may be confused about whether telemedicine is safe and secure based simply on the definition of a service.

To address this problem and promote uniformity in the definition of telemedicine, HITN recommends the Subcommittee:

- Mark-up and pass H.R. 3750, the Telehealth Modernization Act, which would provide states with clear definitions and principles they can use when determining how they define telemedicine. More specifically, the bill provides states with the following guidance:
  - *Establishing a Treatment Relationship Online:* A physician-patient relationship can be established using telemedicine technologies provided the standard for in-person care is met.
  - *Evaluation and Treatment of Patient:* Treatment and consultation recommendations are held to the same standards of appropriate practice whether virtual or in-person.
  - *Ensuring Privacy, Security, Documentation, and Continuity:* Telehealth encounters should meet or exceed applicable federal and state legal requirements of medical and health information privacy, be HIPAA compliant, include informed consent, update a medical record, and support continuity of care.

### **Interoperable Health IT Framework:**

Interoperability is the ability of two or more systems to exchange information, and to automatically interpret the information exchanged meaningfully and accurately in order to produce useful results as defined by the end users of both systems. Since HITN was formed in 2007, we have advocated for interoperability that allows sharing and use of information so that every health care provider has access to longitudinal data on patients they treat to make evidence-based decisions, coordinate care and improve health outcomes.

Interoperability is necessary to optimally provide telemedicine services and is a precursor to transformation that lowers health costs, and that improves health outcomes, quality, and safety. To advance valuable telemedicine services, HITN suggests the Subcommittee pass legislation to:

- Establish a timeframe for achieving semantic interoperability by 2017.
- Prohibit information blocking, or closed Application Programming Interfaces, in federal programs intended to share information across health care providers (Meaningful Use, ACOs, etc.).
- Congress should provide the Administration the funding it needs to collaborate with private sector experts and adopt interoperability standards by 2017. We believe ONC does not currently have adequate resources to achieve this task.

Consumers have embraced technology to transform the way they shop, the way they bank, and the way they access information, and the way they communicate. Unfortunately, automating yesterday's health system is inadequate in giving patients and providers the tools they want and need to actively engage in their own health and wellness and to deliver effective, efficient care.

We thank the Committee for this opportunity to provide input on behalf of our members and look forward to working with you on these issues.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joel C. White". The signature is fluid and cursive, with the first name "Joel" being the most prominent.

Joel C. White  
Executive Director