



State Policy Agenda for Telehealth Innovation

2023 UPDATE

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Introduction

The COVID-19 pandemic disrupted the status quo in healthcare. As we recover, lawmakers now have an opportunity to learn from our mistakes and triumphs to chart a new course. Among the most notable changes in care delivery brought about by the pandemic is the rise of telehealth. Yet as we update this report to reflect actions taken in 2022 it is hard to not notice that states have shown a surprising lack of urgency in making comprehensive updates to their telehealth laws.

While telehealth services were available long before the pandemic, millions of Americans used telehealth for the first time over the past three years. The rapid adoption of telehealth technology was enabled by emergency regulatory reforms undertaken at the federal and state levels. For example, federal officials made select changes to the Medicare program and governors in nearly all 50 states advanced access with flexible provider licensure for new telehealth uses by executive order.

However, most of the emergency actions taken early on in the pandemic were only temporary. When state public health emergency declarations ended, and executive orders were withdrawn, many of the new flexibilities were lost. While some states recognized the benefits of regulatory flexibility and have adopted permanent reforms, a surprising number have only made minor tweaks to their laws, and most only benefit one kind of service or provider.

States must continue to refocus their efforts to ensure clear laws and guidelines are in place for innovation to emerge so that patients and providers can benefit from this helpful tool in any care delivery toolbox. Immediate action will be needed to avoid disrupting patient access to providers they gained during COVID as other options may not exist in their community. For many patients, cutting off remote access to care is the difference between them receiving care in this manner versus no care at all.

There are four key areas where states have an opportunity to unleash innovation and embrace the potential of telehealth for expanding patient access to high-quality care:

- 1. Patients Can Access all Forms of Telehealth:** State laws and regulations should define telehealth in broad terms that do not favor one mode of telehealth over others or preclude future innovation in care delivery. This is called modality neutrality.
- 2. Patients Can Start a Telehealth Relationship by Any Mode:** State laws and regulations should not prohibit patients from initiating a relationship with a telehealth provider via their preferred modality.
- 3. Patients Face No Barriers to Across State Line Telehealth:** State laws and regulations should not prevent patients from accessing virtual care from providers licensed in other states.
- 4. Patients Can See Many Kinds of Providers Over Telehealth:** State laws and regulations should allow providers to practice at the top of their license to take the next step toward a more quality-oriented, affordable, and innovative health system.

This report examines all 50 states in these four key areas. This report does not cover all telehealth-related policy changes in 2022. For example, it ignores actions taken in states to expand or adopt compacts.¹ Many of these smaller changes are not highlighted because they have severe limits, or only tweak around the edges.

By contrast, adopting this state policy agenda for telehealth innovation would remove deleterious barriers that have historically discriminated against those in certain geographies, such as rural communities or underserved urban areas.

State Policy Agenda for Telehealth Innovation

State	Modality Neutral	Start Telehealth by Any Mode	No Barriers to Across State Line Telehealth	Independent Practice
AK	●	●	●	●
AL	●	●	●	●
AR	●	●	●	●
AZ	●	●	●	●
CA	●	●	●	●
CO	●	●	●	●
CT	●	●	●	●
DE	●	●	●	●
FL	●	●	●	●
GA	●	●	●	●
HI	●	●	●	●
IA	●	●	●	●
ID	●	●	●	●
IL	●	●	●	●
IN	●	●	●	●
KS	●	●	●	●
KY	●	●	●	●
LA	●	●	●	●
MA	●	●	●	●
MD	●	●	●	●
ME	●	●	●	●
MI	●	●	●	●
MN	●	●	●	●
MO	●	●	●	●
MS	●	●	●	●
MT	●	●	●	●
NC	N/A	●	●	●
ND	●	●	●	●
NE	●	●	●	●
NH	●	●	●	●
NJ	●	●	●	●
NM	●	●	●	●
NV	●	●	●	●
NY	●	●	●	●
OH	●	●	●	●
OK	●	●	●	●
OR	●	●	●	●
PA	N/A	●	●	●
RI	●	●	●	●
SC	●	●	●	●
SD	●	●	●	●
TN	●	●	●	●
TX	●	●	●	●
UT	●	●	●	●
VA	●	●	●	●
VT	●	●	●	●
WA	●	●	●	●
WI	●	●	●	●
WV	●	●	●	●
WY	●	●	●	●

Modality Neutral

A quality-oriented, provider and patient-centered health system means allowing for many kinds of telehealth, not just live video. For this category, the report will largely follow the term as defined by the American Telemedicine Association (ATA) which points to a “modality-neutral” definition of telehealth including various methods whether asynchronous or synchronous, and various technologies whether by audio-video, store and forward, or remote patient monitoring.

“Telehealth” means a mode of delivering health care services using telecommunication technologies, including but not limited to asynchronous and synchronous technology, and remote patient monitoring technology, by a health care practitioner to a patient or a practitioner at a different physical location than the health care practitioner.

[Remote patient monitoring](#) refers to the transmission and monitoring of personal health data (including vital signs, weight, blood pressure, blood sugar, blood oxygen levels, heart rate, and electrocardiograms) via electronic communication technologies. Remote patient monitoring allows providers to track a patient’s health data outside of a facility. This is beneficial for preventing readmissions and allowing older adults and individuals with disabilities to live at home and avoid admission into a skilled nursing facility.

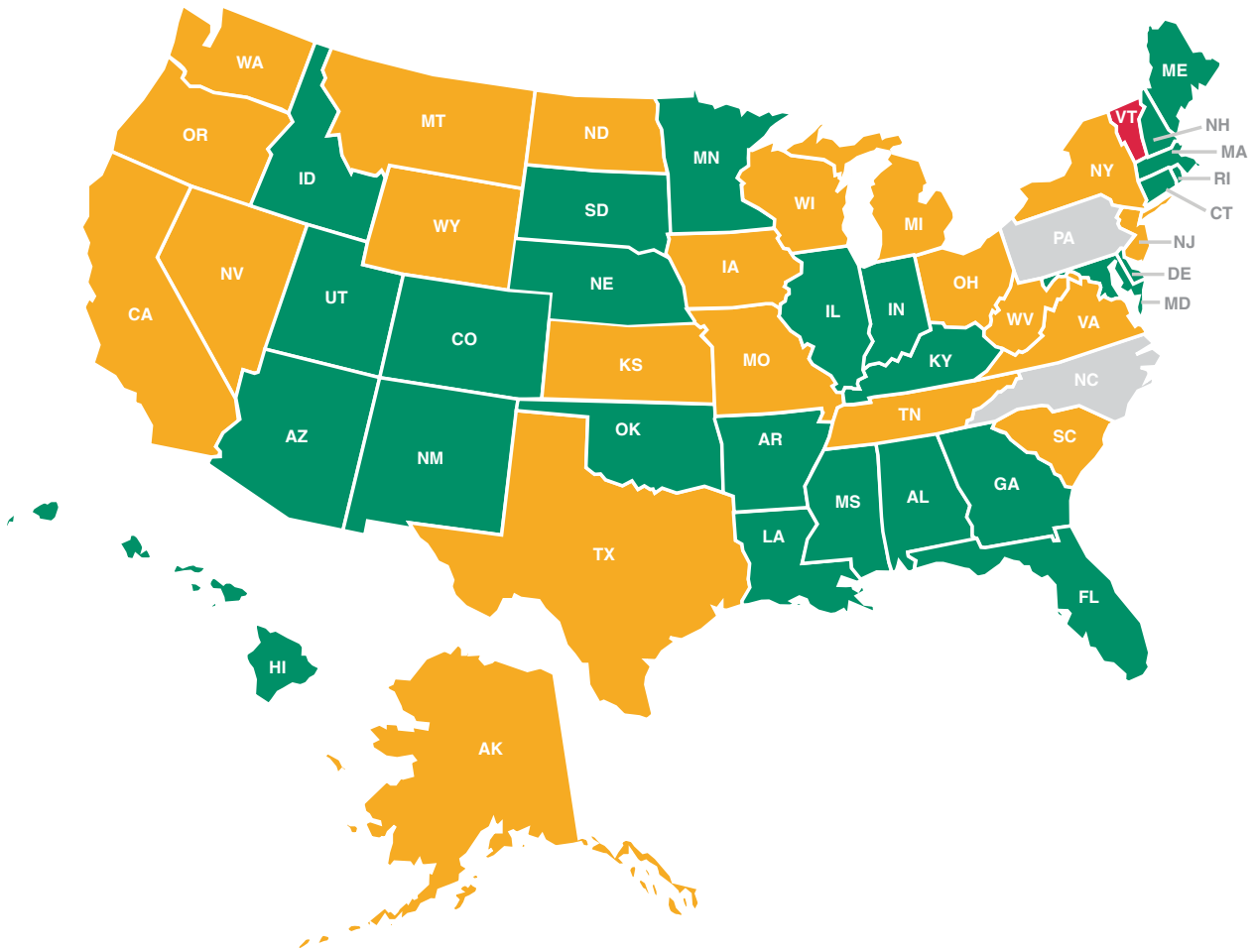
[Store-and-forward](#) refers to the electronic transmission of digital medical information including pre-recorded video or images (such as X-rays, MRIs, or photos of skin conditions). Store-and-forward transfers are particularly useful for consultations with specialists who can review medical information after it has been collected and uploaded. This provides patients access to specialty care promptly without the need for coordinating schedules and lengthy travel.



STATE HIGHLIGHT: KANSAS

In April 2022, Kansas became the 26th state to grant nurse practitioners full independent practice authority ([HB 2279](#)) when Governor Laura Kelly signed it into law. Nurse practitioners are highly skilled healthcare professionals trained at the graduate level. Some states require nurse practitioners to work under “collaborative practice agreements” with supervising physicians, but Kansas—and now the majority of states—allow independent practice. Allowing nurse practitioners to work independently could help mitigate the growing nationwide shortage of general practice physicians. Under the new Kansas law, nurse practitioners may now prescribe durable medical equipment and prescribe, procure, and administer any drug consistent with their training and education without needing to establish a collaborative practice agreement.

STATE LAWS ON ALLOWING MANY METHODS FOR PATIENTS TO ACCESS TELEHEALTH



- **Green:** Allows synchronous and asynchronous explicitly or has a broad enough definition for their use. The state law also mentions store-and-forward and remote patient monitoring.
- **Yellow:** Allows synchronous and asynchronous explicitly or has a broad enough definition to allow its use.
- **Red:** Limits the use of at least one kind of modality.

Start Telehealth by Any Mode

Every patient has a different preference for how to interact with a telehealth provider. As a result, allowing for the relationship to be initiated through the patient’s preferred modality is imperative. Imagine someone experiencing a behavioral health crisis in the middle of the night. They might strongly prefer to start communication by text or in an asynchronous manner before being comfortable switching to a video call or in-person visit. Or imagine a busy patient who just needs to follow up on an already-prescribed drug. Getting it refilled can be much more efficiently handled through an asynchronous interaction which prevents them from having to miss work and frees up a provider’s time to see a sick patient. If the health system is going to be more patient-centered, accessible, and avoid wasting money—then state laws need to ensure these better methods to deliver care are available. Some states allow for the use of both synchronous and asynchronous modalities (as highlighted in the map above) but may limit the modalities that can be used to start the relationship, which is what is being ranked here. Laws and board regulations should remove barriers that get in the way of jump-starting a telehealth relationship.

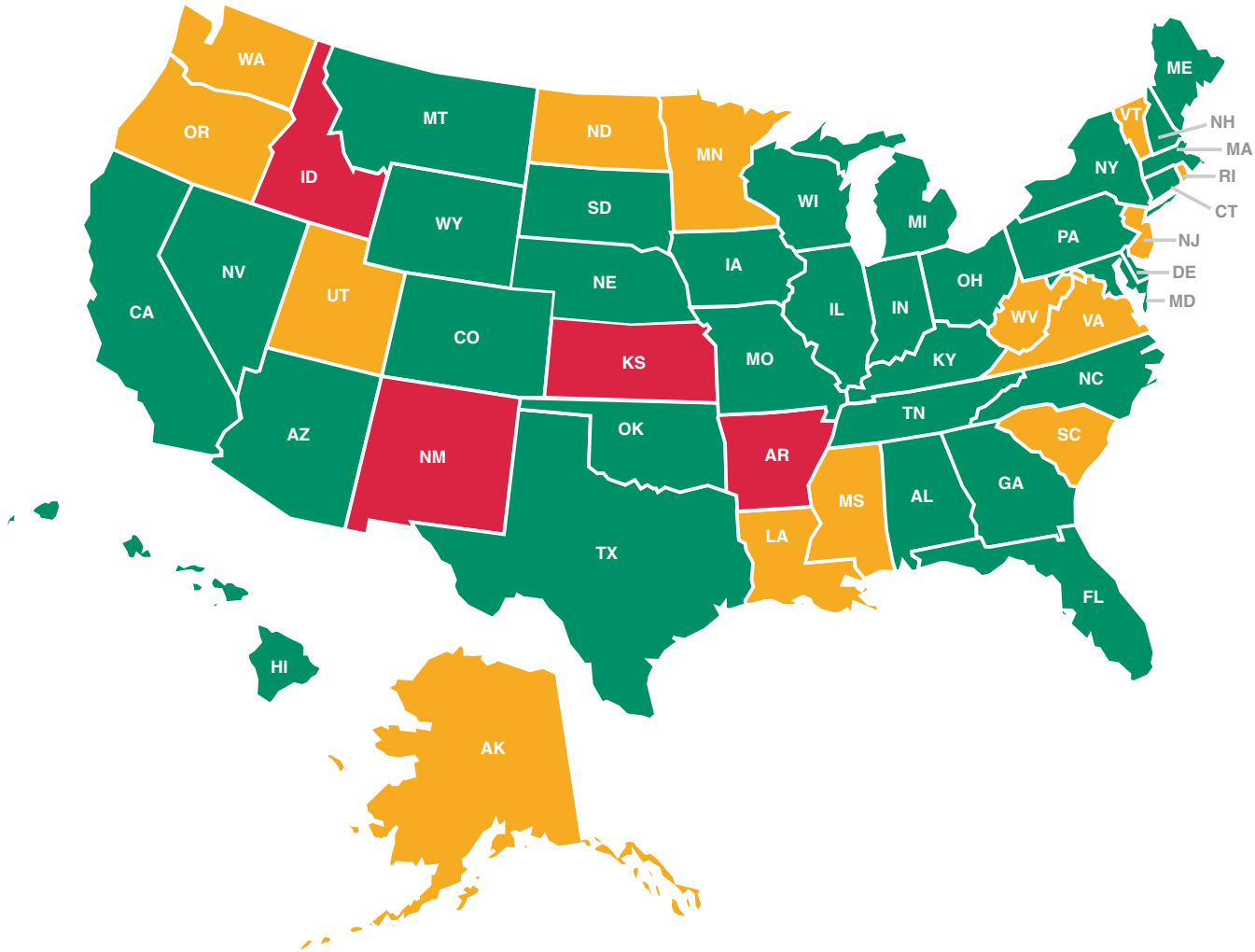


STATE HIGHLIGHT: NEW HAMPSHIRE

Governor Chris Sununu signed numerous pieces of legislation on telehealth in 2022. The more significant ones were [SB 382](#), [SB 390](#), and [HB 1661](#). The new laws updated the definitions of telehealth, and removed an in-person requirement to start a patient-provider relationship that allows patients to seek care in the manner that works best for them. This is enough to improve New Hampshire’s ranking for “starting telehealth by any mode” from red to green.

The new laws also create a pathway for reciprocity to allow New Hampshire patients to seek care from physicians and physician assistants licensed in other states, and for patients to seek consultations and receive follow-up care from providers they had previously seen in other states. These are positive reforms and moved New Hampshire’s ranking from a red to a yellow for “no barriers to access across state telehealth,” but since reciprocity will not apply to all providers it is not enough to be green.

STATE LAWS ON PATIENTS STARTING A RELATIONSHIP BY ANY MODE OF TELEHEALTH



- **Green:** Patients can start a telehealth relationship using the modality of their choice.
- **Yellow:** Law or regulations suggest a standard of care that would not allow starting a telehealth relationship over an asynchronous mode.
- **Red:** Law or regulations specifically restrict a certain modality for starting a telehealth relationship over an asynchronous mode.

No Barriers for Patients to Across State Line Telehealth

Allowing patients to access providers outside their community is imperative as most cities and towns simply lack certain kinds of providers.² Telehealth may be their only option for seeing a specialist, to get a second opinion or access team-based care. Allowing across-state-line telehealth ends geographic and economic discrimination for many patients and allows access to providers who would not otherwise be accessible by distance or expense of travel.³

Too many states and medical boards have made it time-consuming, expensive, or prohibited providers from seeing patients outside their home state. Pilots don't lose their skills when they cross a state line, and neither do health care professionals. As more Americans are mobile, being able to stay in touch with providers who know the patient's history and have their trust is imperative to better health outcomes.

This category highlights states that allow providers in good standing to see patients in another state without jumping through expensive time-consuming hoops—and not just for a consultation with another provider or during an emergency. States that earned a positive ranking often allowed providers to register to see new patients or provide simple reciprocity for providers in good standing. Anything over and above these requirements are barriers to the provider-patient relationship, and many of the provider compacts being pushed have severe limitations.

Imagine that a family member gets sick and the nation's leading expert on treating the illness works at the Cleveland Clinic in Ohio, where you don't live. You could not see this specialist unless you convinced the provider to go through the time and expense of obtaining a full medical license in your state. If you are wealthy, you could travel to Ohio and pay out of pocket for the services. Middle-class and low-income residents have no such option. This is discrimination by geography and economic status. Telehealth reform is a market-based equalizer.

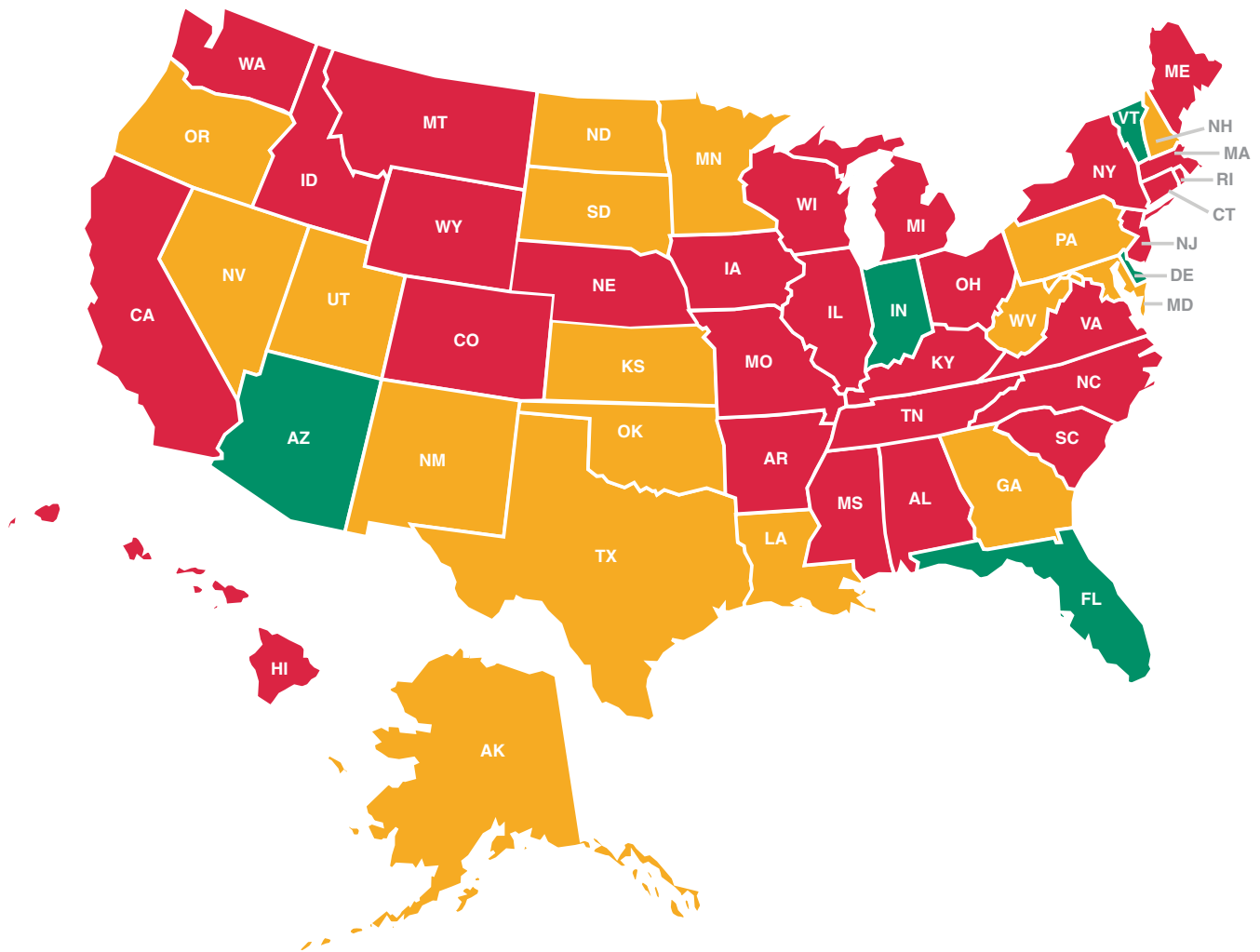


STATE HIGHLIGHT: VERMONT

Governor Phil Scott signed into law two bills related to across state line telehealth in 2022. The first [HB 654](#) extended an altered version of an emergency provision that had allowed for the continuation of care across state lines and deemed them authorized to do so if they were in good standing.

[Act 107](#) was signed into law in May 2022, and will be effective in July 2023. The law sets in place a permanent process for 30 different kinds of out-of-state providers to become licensed or registered in the state to see Vermont patients but places some barriers to access. The telehealth license limits visits to “not more than 20 unique patients or clients in Vermont” and does not allow them to see patients in the state. For the registration, it only allows services to be provided for 120 consecutive days, and limits them to not more than 10 unique patients over that 120-day period.

STATE LAWS THAT DON'T REQUIRE SICK PATIENTS TO TRAVEL TO ACCESS PROVIDERS IN ANOTHER STATE



- **Green:** Clear, straightforward, predictable registration or licensing process for all out-of-state health care providers to see patients across state lines.
- **Yellow:** Has a clear, straightforward, predictable registration or licensing process but it only applies to physicians, or certain kinds of providers, or only for surrounding states.
- **Red:** There are clear barriers to across-state-line telehealth, or there is not an option for a clear pathway to do so.

Independent Practice

The report rates each state based on whether nurse practitioners (NPs) are allowed to practice in the way they have been trained, or if the state still requires a doctor to provide oversight or co-sign their work.

The country has an acute shortage of doctors that is projected to grow to up to 124,000 by 2034.⁴ Expanding the supply of health care professionals with high-quality nurse practitioners is not only a nice option to have for patients during a pandemic, but a necessity. It also allows doctors to focus on the most complex and sick patients. Ample research has shown that expanding NPs' scope of practice increases access to care and reduces costs without compromising quality.⁵ Absent reform, many patients may be forced to go without care.

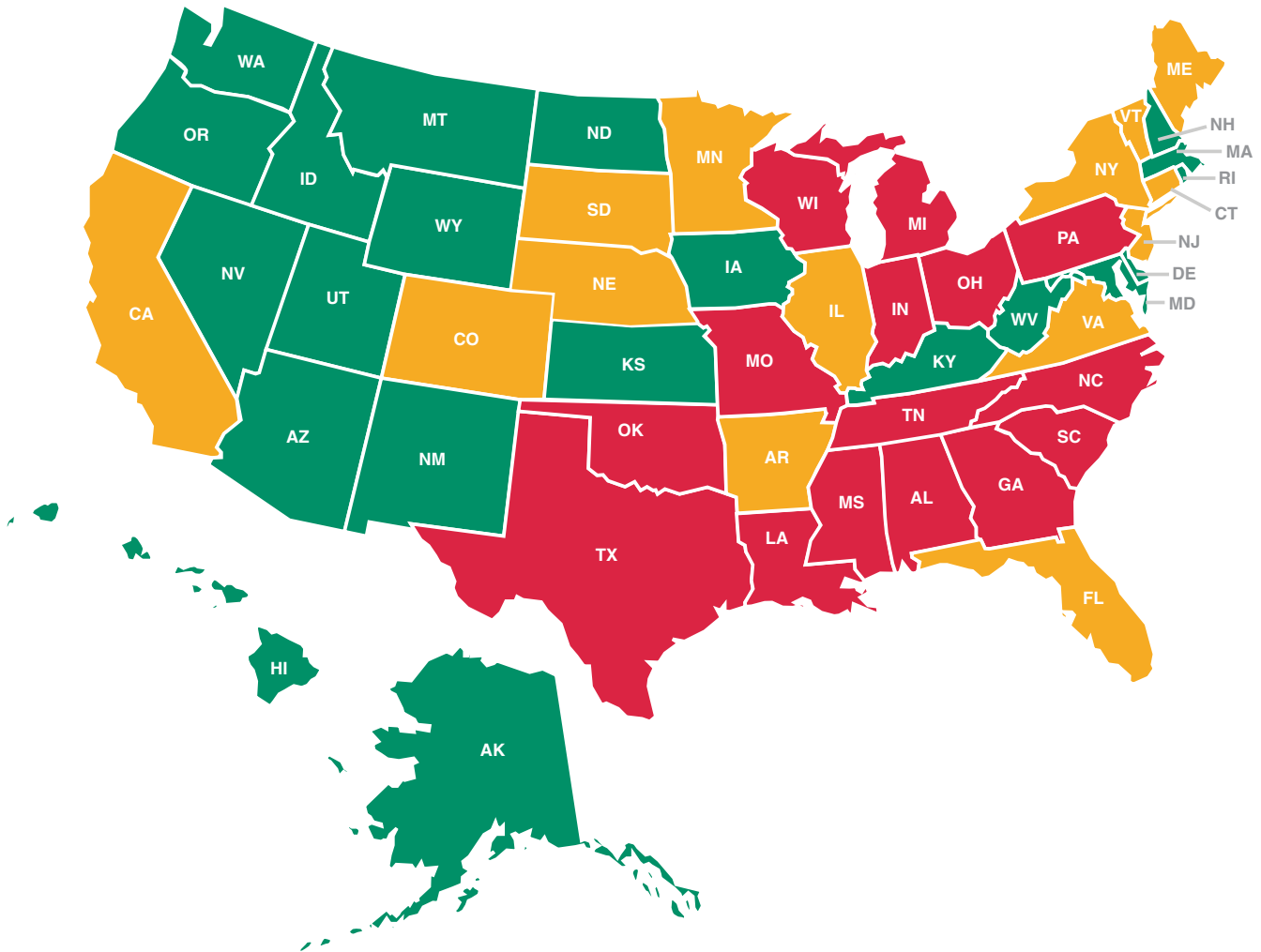
It is important to acknowledge that expanding the scope of practice for pharmacists, physician assistants, dentists, and other medical providers can also be important as well. Because of the impact of NPs being allowed to practice independently on patient access, this was the focus of the report.



STATE HIGHLIGHT: NEW YORK

In 2022, Governor Kathy Hochul signed into law the Nurse Practitioner Modernization Act, as part of the state budget, that now allows nurse practitioners to practice independently after 3,600 practice hours under either a physician or another nurse practitioner. This change moves New York's ranking from red to yellow. This is a positive step in the right direction but hopefully, in the near future, the New York State Assembly will revisit the policy and eliminate the practice hour requirement.

STATE LAW ON HAVING MORE PROVIDER OPTIONS



- **Green:** Nurse practitioners (NPs) can practice independently without a collaborative practice agreement or supervision from a physician to provide medical services.
- **Yellow:** NPs can practice independently after a certain period of time, or they have some collaboration or supervision requirement for at least one or more medical services, not including for prescribing.
- **Red:** An NP can never practice independently without a collaborative practice agreement or supervision.

Appendix: State Innovation Policy Updates Needed

State	Modality Neutral	Start Telehealth by Any Mode	No Barriers to Across State Line Telehealth	Independent Practice
AK	Add definition for remote patient monitoring or store-and-forward technologies.	Remove standard that it is considered unprofessional conduct if providing treatment, rendering a diagnosis, or prescribing medications based solely on a patient-supplied history that a physician licensed in this state received by telephone, facsimile, or electronic format. This puts in place a barrier to patients starting a relationship in the mode they prefer.	Amend or replace the Alaska business license requirement for telehealth providers to allow for an easy registration or reciprocity law for all providers.	N/A
AL	Add robust definitions for telehealth.	Make it clear that a patient-provider relationship can start over any mode.	Replace limited special purpose license for just doctors and replace it with an easy registration or reciprocity law for all providers.	Allow NPs to practice independently.
AR	N/A	Update Medical Board regulations that require a face-to-face examination using real time technology, and forwarded medical histories to establish a patient-provider relationship. These rules limit patient choice to start a relationship in an asynchronous manner.	Pass an easy registration or reciprocity law for all providers.	Remove collaborative practice agreement mandate of 6,240 hours before NPs can practice independently.
AZ	N/A	Amend Medical Practice Act to remove restrictions on prescribing by providers to only those with an established doctor-patient relationship or those who conduct an examination during a real-time telemedicine encounter with audio and video capability. This places a barrier to patient access to the provider that is the best fit for their care.	N/A	N/A
CA	Add a definition for remote patient monitoring.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers.	Remove 4,600 hour supervision mandate.
CO	N/A	N/A	Pass an easy registration or reciprocity law for all providers.	N/A
CT	N/A	N/A	Pass an easy registration or reciprocity law for all providers.	Remove three year supervision mandate.
DE	N/A	Amend the Medical Practice Act to remove real-time modality.	N/A	N/A
FL	N/A	N/A	Should remove prohibition on registered telehealth providers from providing in state care.	Remove 3,000 hour supervision mandate.
GA	N/A	Make it clear that a patient-provider relationship can start over any mode.	Expand special telemedicine license for physicians to all providers from other states in good standing.	Allow NPs to practice independently.
HI	N/A	N/A	Pass an easy registration or reciprocity law for all providers.	N/A
IA	Add definition for remote patient monitoring and store-and-forward into state law, remove interactive requirement.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers.	N/A

Appendix *continued*

State	Modality Neutral	Start Telehealth by Any Mode	No Barriers to Across State Line Telehealth	Independent Practice
ID	N/A	Remove mandate that provider-patient relationship can not be established by asynchronous modalities.	Pass an easy registration or reciprocity law for all providers.	N/A
IL	N/A	Remove established patient requirement that blocks some patient access to starting a relationship.	Pass an easy registration or reciprocity law for all providers.	Allow NPs to practice independently by removing the collaborative practice agreement mandate.
IN	N/A	N/A	N/A	Allow NPs to practice independently.
KS	Remove real-time requirement in the definition of telemedicine, and add definition for remote patient monitoring.	Make it clear that a patient-provider relationship can start over any mode.	Expand telemedicine waiver in law that currently only applies to the 16 professions regulated by the Kansas State Board of Health Arts, to all providers. This may require a broadening of the definition of health care provider in the statute.	N/A
KY	Add a definition for store-and-forward.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers.	Remove four year practice requirement before being allowed to prescribe.
LA	N/A	Make it clear that a patient-provider relationship can start over any mode which will change Board of Medical Examiners regulations that raise doubt that a patient can start a relationship by asynchronous telemedicine.	Streamline Board of Medical Examiners special telemedicine licenses, and pass an easy registration or reciprocity law for all providers.	Allow NPs to practice independently.
MA	N/A	N/A	Pass an easy registration or reciprocity law for all providers.	Remove two years of experience before allowed to prescribe.
MD	Remove the interactive requirement in the insurance code.	N/A	Pass an easy registration or reciprocity law for all providers that extends beyond just the narrow list currently allowed for physicians.	N/A
ME	N/A	Make it clear that a patient-provider relationship can start over any mode.	Remove physician consultation limitation for across-state-line care, and pass an easy registration or reciprocity law for all providers.	Remove 24 month supervision mandate.
MI	Add definition for remote patient monitoring.	N/A	Pass an easy registration or reciprocity law for all providers.	Remove collaborative practice agreement and delegation mandates to allow NPs to practice independently.
MN	N/A	Make it clear that a patient-provider relationship can start over any mode.	Expand the physician across state line registration or a reciprocity law to all providers.	Remove 2,080 hour collaborative practice agreement mandate.
MO	Add definition for remote patient monitoring.	N/A	Pass an easy registration or reciprocity law for all providers.	Remove collaborative agreement mandate.
MS	New law (SB 2738) definition includes store-and-forward and remote patient monitoring, but mandated everything else be real-time audio video, unless the Commissioner of Insurance allows other situation without that. Update the definition to remove any real-time requirement. Remove the sunset in 2025.	Fix to definition list in column 1 would make it clear that any mode is accepted to start a provider-patient relationship. But Board of Medical Licensure regulations need to be fixed to remove requirements of telehealth being capable of replicating an in-person visit, as that prevents a patient-provider relationship from being established through asynchronous telehealth.	Pass an easy registration or reciprocity law for all providers.	Allow NPs to practice independently.

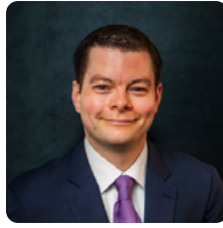
Appendix *continued*

State	Modality Neutral	Start Telehealth by Any Mode	No Barriers to Across State Line Telehealth	Independent Practice
MT	Add definition for remote patient monitoring.	N/A	Pass an easy registration or reciprocity law for all providers.	N/A
NC	Add robust definitions for telehealth.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers.	Remove collaborative agreement mandate.
ND	Add a definition for telehealth that mentions remote patient monitoring.	Make it clear that a patient-provider relationship can start over any mode. Remove in-person medical evaluation in the North Dakota Food, Drug and Cosmetic Act.	Expand on license by endorsement that only applies to physicians and physician assistants to apply a reciprocity or easy registration to all providers in good standing.	N/A
NE	N/A	N/A	Pass an easy registration or reciprocity law for all providers.	Remove 2,000 hour supervision mandate.
NH	N/A	N/A	Expand new reciprocity law to all providers, not just physicians and physician assistants.	N/A
NJ	Remove any remaining references in regulation for real-time or video-only telehealth.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers.	End collaborative agreement mandate for prescribing.
NM	Remove interactive requirement.	Update regulations that require face to face telehealth visit. And allow prescribing without face-to face encounter.	Streamline special telemedicine license for doctors, and pass an easy registration or reciprocity law for all providers.	N/A
NV	Add definition for remote patient monitoring.	N/A	Streamline Board of Medical Examiners optional special purpose licenses to a registration. Pass an easy registration or reciprocity law for all providers.	Remove two years or 2,000 hour requirement before being able to prescribe controlled substances.
NY	Add definition for remote patient monitoring or store-and-forward telehealth.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers.	Remove collaboration mandate.
OH	Add a definition for telehealth that mentions store-and forward, and remote patient monitoring.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers.	Remove collaborative agreement mandate and let NPs practice independently.
OK	N/A	N/A	Pass an easy registration or reciprocity law for all providers that moves beyond the subjective process only extended by the Board of Osteopathic Examiners.	Remove supervision mandate and collaborative agreement mandate.
OR	Add a definition for telehealth that mentions store-and-forward.	Make it clear that a patient-provider relationship can start over any mode, and remove prohibitions in regulation that block prescribing over the internet.	Pass an easy registration or reciprocity law for all providers that moves beyond the subjective process only extended to physician.	N/A
PA	Add robust definitions for telehealth.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers that extends beyond just the providers from adjoining states.	Remove collaborative agreement mandate and let NPs practice independently.
RI	Remove reference in regulation (216-RICR-40-05-1) that states Asynchronous evaluation of a patient, without contemporaneous real-time, interactive exchange between the physician and patient, is not appropriate.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers.	N/A

Appendix *continued*

State	Modality Neutral	Start Telehealth by Any Mode	No Barriers to Across State Line Telehealth	Independent Practice
SC	Add definitions for remote patient monitoring or store-and-forward in the provider code.	Make it clear that a patient-provider relationship can start over any mode. Remove ban on lifestyle prescribing over telehealth.	Pass an easy registration or reciprocity law for all providers.	Remove the written protocol requirement.
SD	N/A	N/A	Pass an easy registration or reciprocity law for all providers, and make the physician pathway automatic if they are in good standing.	Remove 1,040 hour practice mandate before being allowed to practice independently.
TN	Remove prohibition of remote patient monitoring for provider-based telemedicine.	N/A	Pass an easy registration or reciprocity law for all providers, building on subjective process now only for physicians.	Allow NPs to practice independently.
TX	Add definitions for remote patient monitoring and store-and-forward.	N/A	Streamline across-state-line pathway for physicians to just a registration or none. Add universal pathway for all other providers in good standing.	Allow NPs to practice independently.
UT	N/A	Broaden Online Prescribing Act to allow more companies to offer services to patients.	Remove 10 year practice requirement for physicians practicing across-state-lines. Extend the post-care time period for mental health care when a patients moves to Utah. Pass a reciprocity law for all providers.	N/A
VA	Update state law to bring clarity on what forms of telehealth can be used to form a relationship and to prescribe. Add formal definitions outside of the statewide telehealth plan for remote patient monitoring and store-and-forward.	Make it clear that a patient-provider relationship can start over any mode.	Pass an easy registration or reciprocity law for all providers.	Remove five year practice requirement before allowing independent practice.
VT	Remove the live requirement for telemedicine. Add definition for remote patient monitoring. Remove requirement for an image for store-and-forward communication.	Make it clear that a patient-provider relationship can start over any mode.	State should expand the across-state-line license and registration to any form of provider. And remove the patient limit and prohibition of care in the state.	Remove the 2,400 hour or two year collaborative agreement mandate.
WA	Remove real-time requirement in the definition of telemedicine, and add definition for remote patient monitoring.	Remove real-time requirement in the definition of telemedicine.	Pass an easy registration or reciprocity law for all providers.	N/A
WI	Add definition for store-and-forward and remove any requirement that telehealth has to be real-time.	N/A	Pass an easy registration or reciprocity law for all providers.	Allow NPs to practice independently.
WV	Add definition for store-and forward. Remove established patient category to remove face-to-face requirement.	Remove interactive and real-time requirements to establish a patient-provider relationship.	Remove prohibition from seeing a patient in state. And allow patients to see across-state-line physicians from other states without requiring them to first be licensed in West Virginia.	Remove three year collaborative agreement mandate for prescribing.
WY	Add a uniform definition for telehealth that makes it clear that synchronous, asynchronous, remote patient monitoring and store-and-forward are allowed.	N/A	Pass an easy registration or reciprocity law for all providers.	N/A

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