

California Telehealth Policy Coalition

Legislative Briefing

# A Year in Review & Looking to 2024

October 12, 2023



California  
**Telehealth**  
Policy  
Coalition

# Welcome and Introduction

Mei Wa Kwong, JD  
Executive Director  
Center for Connected Health Policy



**Center for Connected  
Health Policy**

THE NATIONAL  
TELEHEALTH POLICY  
RESOURCE CENTER

# Thank you to today's sponsors



**California Health Care Foundation**  
HEALTH CARE THAT WORKS FOR ALL CALIFORNIANS



# About the California Telehealth Policy Coalition

## Our origin story

In 2011, when [AB 415, the Telehealth Advancement Act](#) was winding its way through the legislative process, an ad hoc group of statewide organizations supporting the bill formed. This group, including the [California Primary Care Association](#), the [California Hospital Association](#) and the [California Rural Health Association](#), came together in meetings convened by CCHP in order to be apprised of any developments around AB 415 and share information with each other.

With the successful passage of AB 415, the group continued to meet and eventually evolved into the California Telehealth Policy Coalition. CCHP leads the Coalition and hosts monthly conference calls.

In recent years, the Coalition has decided to move beyond a mere information sharing group to become a more active collective participant in telehealth policy. The Coalition has developed a slate of telehealth policy goals and issues that it is working on in a continued effort to modernize California telehealth policy.

[SEE ALL COALITION MEMBERS >](#)



Next meeting | Friday, October 21, 2022

## Monthly Coalition Meeting

We host monthly conference calls to discuss the latest California telehealth policy developments. Want to join us?



**Please visit our website for more information or if you are interested in joining.**

<https://www.cchpca.org/california-telehealth-policy-coalition/>

# Purpose and objectives of today's webinar



- **Learn about recent state and federal policy developments** related to telehealth coverage, reimbursement, and access, as well as areas where additional growth is occurring and needed.
- **Provide an overview of stakeholder perspectives and projects** regarding cross-state licensure, school-based telehealth, and telehealth for treating substance use disorder (SUD).
- **Discuss how telehealth policy supports specific health needs**, and how it can be improved to further support certain populations and services.
- **Review remaining policy opportunities** and telehealth policy outlook for 2024.

# Agenda

## Welcome

- Mei Wa Kwong, Executive Director, Center for Connected Health Policy

## 2023 Telehealth Policy Review

- Amy Durbin, Center for Connected Health Policy
- Stephanie Thornton, BluePath Health

## Panel Discussion

- Moderated by Jennifer Alley, California Psychological Association

## Speakers

- Rosanne Helms, Board of Behavioral Sciences
- Alicia Garoupa, Los Angeles County of Education (LACOE)
- Dr. David Kan, Bright Heart Health

## Q&A



Attendees will remain muted during the webinar.



Please submit any questions you have during the webinar in the Q&A box, not the chat box.

# 2023 Telehealth Policy Review

Amy Durbin,  
Center for Connected Health  
Policy

Stephanie Thornton,  
BluePath Health



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# California Legislative Developments

- **Medi-Cal Telehealth Provider Protocols**

- [AB 1241](#) (Weber) – *Signed by Governor* – Revised existing Medi-Cal requirement (passed as part of [SB 184](#) last year) that a provider furnishing services through video synchronous interaction or audio-only synchronous interaction, by a date set by the department, no sooner than January 1, 2024, also either offer those services via in-person contact or arrange for a referral to, and a facilitation of, in-person care. AB 1241 changed that requirement to instead require a provider to maintain and follow protocols to either offer those services via in-person contact or arrange for a referral to, and a facilitation of, in-person care. The bill also specified that the referral and facilitation arrangement would not require a provider to schedule an appointment with a different provider on behalf of a patient.

- **Licensure**

- [AB 232](#) (Aguiar-Curry)\* – *Signed by Governor* – Authorizing out-of-state mental health providers to deliver services via telehealth in limited circumstances
- [AB 1369](#) (Bauer-Kahan) – *On Governor's Desk* – This bill would authorize an eligible out-of-state physician or surgeon to practice medicine in California without a license if the practice is limited to delivering health care via telehealth to an eligible patient who has a disease or condition that is immediately life-threatening.

\*Coalition Supported



# California Legislative Developments

## • **Broadband Access**

- [AB 41](#) (Holden) – *Vetoed* – This bill would revise the Digital Infrastructure and Video Competition Act to rename the act as the Digital Equity in Video Franchising Act and make various changes to California’s cable video franchise regulation laws.
- [AB 286](#) (Wood)\* – *Signed by Governor* – Requiring broadband provider services and speeds to be available on the CPUC interactive service provider map
- [AB 414](#) (Reyes)\* – *Signed by Governor* – The “Digital Equity Bill of Rights” establishing digital equity for all as a principle of the state.

## • **Reproductive Health**

- [AB 254](#) (Bauer-Kahan) – *Signed by Governor* – This bill would revise the definition of “medical information” in the CMIA to include reproductive or sexual health application information, which the bill would define to mean information related to a consumer’s reproductive or sexual health collected by a reproductive or sexual health digital service.
- [SB 345](#) (Skinner)\* – *Signed by Governor* – Ensures that California law governs in any action against a person who provides or receives by any means, including telehealth, reproductive health care services or gender-affirming health care services if the care was legal in the state in which it was provided at the time of the challenged conduct.

\*Coalition Supported

# California Legislative Developments

- [AB 48](#) (Aguiar-Curry) – *On Governor’s Desk* – This bill would add to the rights of every resident of skilled nursing facilities and intermediate care facilities the right to receive the information that is material to an individual’s informed consent decision concerning whether to accept or refuse psychotherapeutic drugs. The bill would permit the use of remote technology, including telehealth, to allow a prescriber to examine and obtain informed written consent.
- [AB 1399](#) (Friedman) – *Signed by Governor* – This bill would require a veterinarian who practices veterinary telemedicine, among other things, to employ sound professional judgment to determine whether using veterinary telemedicine is an appropriate method for delivering medical advice or treatment to the patient, provide quality of care consistent with prevailing veterinary medical practice, and be able to provide the client with a list of nearby veterinarians who may be able to see the animal patient in person upon the request of the client.

# Telehealth Policies Post-PHE

## MEDICARE

Rural requirement & home eligible originating site remains	Dec 31, 2024
Expanded eligible providers list (FQHCs, RHCs, PTs, OTs, etc.) remains (MFTs and MHCs added permanently)	Dec. 31, 2024
Services list remains	Dec. 31, 2023 (Proposed PFS continues through 2024)
Audio-only remains for some services	Dec. 31, 2024
Once extensions expire, permanent changes have been made to continue allowing certain mental health services without geographic restrictions and in the home, if certain requirements are met – similar allowances via audio-only and FQHCs/RHCs if mental health and certain requirements met	Permanent (in-person requirements waived through 2024)

## MEDI-CAL (*permanent policy*)

- Continued PHE policies allowing home to be eligible originating site for services and FQHC/RHC use of all telehealth modalities
- Coverage for audio-only and other virtual communications, as well as RPM, although only audio-only, live video, and store-and-forward at parity
- Patients can only be established via live video, though exceptions exist in certain circumstances for audio-only (and store-and-forward for FQHCs/RHCs)
- Specific consent requirements and information to be relayed to patient now required
- For providers offering live video and audio-only, new requirements to be met no sooner than January 1, 2024



# 2023 Federal Updates: DEA Regulations

## DEA and HHS Extend Telemedicine Flexibilities through 2024

DEA received more than 38,000 comments on its proposed telemedicine rules and recently held two days of public listening sessions related to those rules. We continue to carefully consider the input received and are working to promulgate a final set of telemedicine regulations by the fall of 2024, giving patients and medical practitioners time to plan for, and adapt to, the new rules once issued. Accordingly, DEA, jointly with the Department of Health and Human Services (HHS), has extended current telemedicine flexibilities through December 31, 2024. The [full text](#) of the extension, entitled “Second Temporary Extension of COVID-19 Telemedicine Flexibilities for Prescription of Controlled Medications,” was submitted to the Federal Register jointly with HHS on September 29.

- During the PHE, providers were allowed to prescribe controlled substances without an in-person evaluation
- In February 2023, the DEA released proposed rules that largely continued in-person requirements and failed to create the much-anticipated registration process, resulting in a flood of comments and criticisms, and subsequently, a 6-month extension of PHE policies through November 11, 2023
- Most recently, the DEA released an additional temporary rule extending PHE policies until December 31, 2024

# 2023 Federal Updates: E-consult CMS Letter

- CMS State Health Official (SHO) letter issued January 5, 2023, to clarify that interprofessional consultation is a distinct, coverable service in Medicaid and CHIP
- Consultation must be “for the direct benefit of the beneficiary” and can be covered under many required and optional benefits including physician services. Both the treating and consulting providers must be enrolled in Medicaid or CHIP and licensed in the beneficiary’s state of residence
- States will need to submit a SPA to CMS to add a payment methodology for interprofessional consultations

# Panel Discussion

**Jen Alley**

**Director of Government Affairs**  
*California Psychological Association*

**Alicia Garoupa, LCSW**

**Chief of Wellbeing and Support Services**  
*Los Angeles County of Education*

**Rosanne Helms**

**Legislative Manager**  
*Board of Behavioral Sciences*

**Dr. David Kan, M.D.**

**Chief Medical Officer**  
*Bright Heart Health*



# Board of Behavioral Sciences: Background Information

The Board of Behavioral Sciences is the State of California entity that licenses and regulates:

- Marriage and Family Therapists
- Clinical Social Workers
- Professional Clinical Counselors
- Educational Psychologists

Per legislative mandate, public protection is the Board's highest priority.

# AB 232 (Aguiar-Curry)

- AB 232 would allow the Board to offer a 30-day temporary practice allowance to out-of-state licensees who are equivalently licensed in another state or U.S. territory.
- This would begin January 1, 2024.
- To qualify, certain requirements must be met.



# How to Qualify for the AB 232 Temporary Practice Allowance

- Must apply online via the Board's Breeze licensing system.
- Must hold an equivalent current, active and unrestricted license at the highest level for independent clinical practice.
- The client must be located in California when services are provided.
- The client must be a current client of the therapist, and there must be an established, ongoing client relationship.
- The therapist must provide certain specified information to both the client and the Board.

# Q&A



**Please submit your questions in the Q&A box.**

# November 8<sup>th</sup> Annual Meeting – Advancing the Telehealth Continuum: Defining the Policy Landscape and Priorities for 2024

## ADVANCING THE TELEHEALTH CONTINUUM: 2024 POLICY LANDSCAPE AND PRIORITIES

### Confirmed Speakers



**WELCOMING SPEAKER**  
Diana Camacho, MPH

Senior Program Officer, Improving Access  
California Health Care Foundation



**TELEHEALTH CHAMPION**  
Assemblymember  
Rebecca Bauer-Kahan

California State Assembly



**KEYNOTE SPEAKER**  
Jeffrey Reynoso, DrPH, MPH

Regional Director  
U.S. Department of Health and Human  
Services



**LUNCHEON SPEAKER**  
René Mollow, MSN, RN

Deputy Director,  
Health Care Benefits and Eligibility  
California Department of Health Care Services

NOVEMBER 8, 2023, 9 AM-4 PM

THE CALIFORNIA ENDOWMENT  
SACRAMENTO, CA

RSVP: <https://Nov8telehealth.eventbrite.com>

### Agenda:

- Welcome and Keynote; Champion Award
- National Telehealth Perspectives Panel
- Breakout Discussions: Remote Patient Monitoring, Digital Equity, E-consult and more!
- Health Centers and Virtual Care Panel
- Behavioral Health Panel
- Member 2024 Priorities Panel
- Wrap-up and Reception

*Sponsorship opportunities for this event are still available.*

*Please contact Mei Kwong at [meik@cchpca.org](mailto:meik@cchpca.org) for more information.*

**We hope to see you there! Register here: [Link](#)**

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## Contact staff with any questions:

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**Please visit the California Telehealth Policy Coalition website for more information:**

<https://www.cchpca.org/about/projects/california-telehealth-policy-coalition>