



**Center for Connected
Health Policy**

THE NATIONAL
TELEHEALTH POLICY
RESOURCE CENTER

The Webinar Series



**THE IMPACT OF RECENT COURT CASES
ON TELEHEALTH POLICY:**

CROSS-STATE LICENSURE COURT CASES

**OCTOBER 3, 2024
11:00 AM PT**



The Center for Connected Health Policy 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.

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- Today's webinar will be recorded and slides presented here will be made publicly available as resources at cchpca.org.
- Closed captioning is available.
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- Please use the Q&A Button for your questions.
- Thank you in advance for filling out the evaluation form at the end of the webinar.

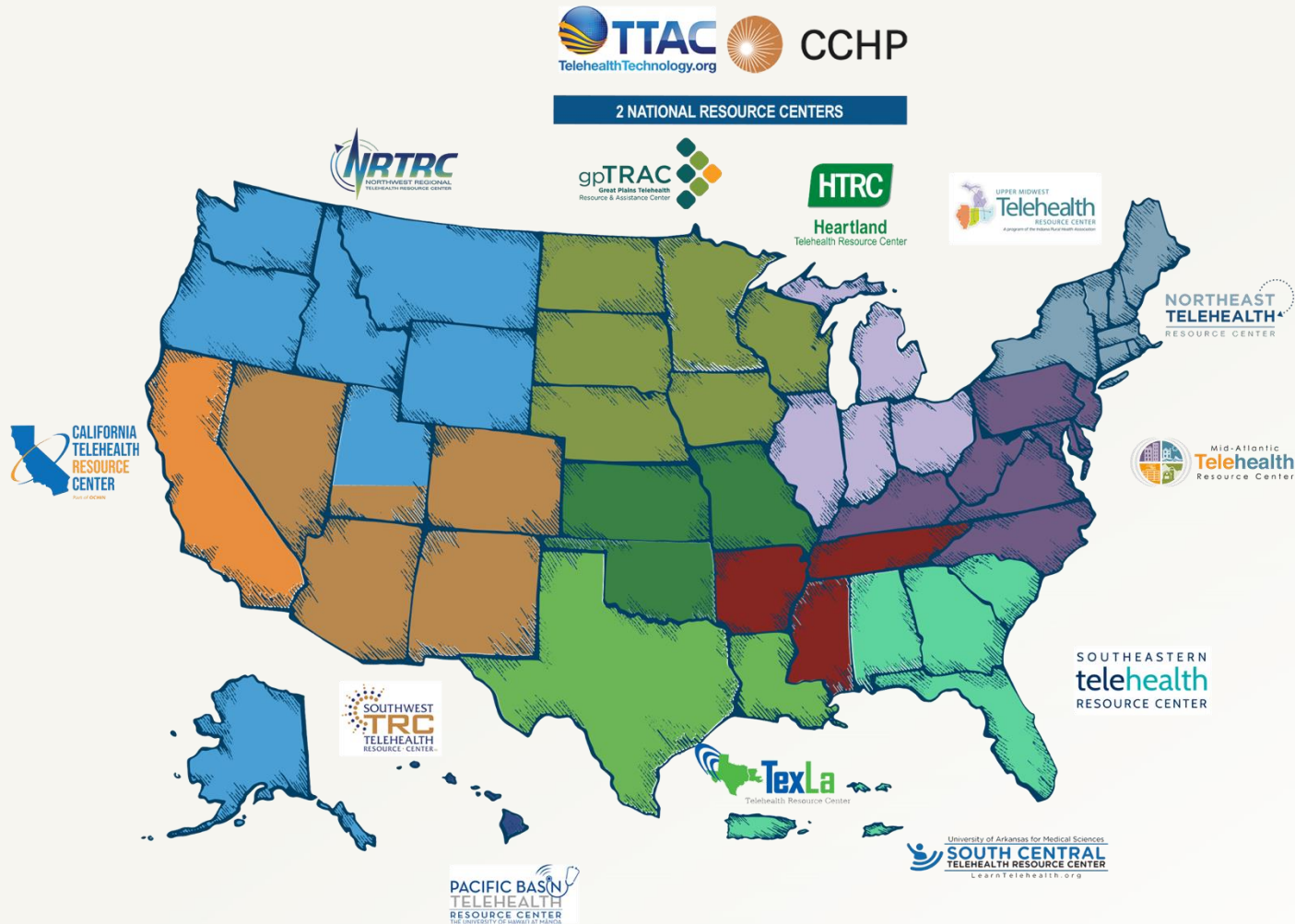


ABOUT CCHP

- 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



NATIONAL CONSORTIUM OF TRCS



TODAY'S AGENDA

Welcome & National Licensure Landscape Overview

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

Panel Discussion

- Helen Kinsman Hughes, Medical Director, Office of Telemedicine, Johns Hopkins Medicine
- Micah Matthews, Deputy Executive and Legislative Director, Washington Medical Commission
- Caleb R. Trotter, Attorney, Pacific Legal Foundation

Q&A

Purpose and objectives of today's webinar

- Briefly explain how licensure laws impact telehealth across state lines.
- Provide an overview of where licensure laws are now and the two pending licensure court cases.
- Panelists will discuss real world impacts on practitioners and patients as a result of current licensure landscape in terms of telehealth access, in addition to potential policy approaches.
- The discussion will cover regulatory and legal perspectives, including the particular arguments the plaintiffs are making in the pending cases and how can these two court cases could ultimately impact licensure laws and telehealth.



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.



SPEAKERS



**Helen Kinsman Hughes, MD,
MPH**

Medical Director
Office of Telemedicine
Johns Hopkins Medicine

Dr. Hughes serves as Medical Director for Johns Hopkins Medicine's Office of Telemedicine and Medical Director of Pediatric Telemedicine for the Johns Hopkins Children's Center. Dr. Hughes is an Assistant Professor of Pediatrics at the Johns Hopkins University School of Medicine and practices general pediatrics in East Baltimore. After earning an undergraduate degree at Haverford College, Dr. Hughes attended medical school at Johns Hopkins School of Medicine and received a Master of Public Health from the Johns Hopkins Bloomberg School of Public Health. For the past 3 years, she has served as an expert consultant to the AAMC on the topic of telehealth and healthcare equity. In addition to her work in telemedicine, she is an Epic Physician Builder and co-chairs the Johns Hopkins Patient Family Centered Design (MyChart) committee.



Micah Matthews

Deputy Executive and
Legislative Director
Washington Medical
Commission

Micah is the Deputy Executive and Legislative Director for the Washington State Medical Commission, the independent regulatory authority for physicians and physician assistants. His responsibilities include the organization's staff and operations and setting the legislative agenda with input from the Commissioners. Micah is also active with the Federation of State Medical Boards, serving on numerous committees including the Cannabis Advisory Group, Audit Committee, and the Digital Credentialing and Technology Committee.



Caleb R. Trotter

Attorney
Pacific Legal Foundation

Caleb Trotter is an attorney at Pacific Legal Foundation, where he litigates on behalf of individuals and small businesses fighting for their constitutional rights to free speech, economic liberty, and equal protection under the law. Caleb's practice at PLF is primarily focused on free speech rights that allow people to pursue the profession of their choice in the manner they see fit. He successfully represented [Peggy Fontenot](#) in a challenge to an Oklahoma law that prevented her from truthfully marketing her art as American Indian-made. Caleb attended law school at Loyola University New Orleans, where he graduated cum laude and served as a member of the *Loyola Law Review* and moot court program. He also earned a BSM in finance and legal studies in business at Tulane University.

Licensure & Telehealth



LICENSURE

FEDERAL

The federal government does not oversee the licensure of healthcare providers but leaves the regulating of it to the state. Some [national/cross state exceptions](#):

- Health professionals employed by the US Department of Veterans Affairs, the Indian Health Service, and the US Department of Defense
- Sports medicine professionals

However, in most cases the states control the policy. Even a program such as Medicare notes that they defer to state licensure laws.

STATE

In general, states will require a license to be issued from their state agency/board if a provider is treating a patient within that state's borders. Some [exceptions](#) exist:

- Limited licensure exemptions
- Registration processes
- Interstate licensure compacts

However, telehealth is generally considered rendered at the location of the patient and typically individual states will require providers delivering care to patients within their borders to have a license issued by the state or some type of in-state approval at the time of the interaction.



LICENSURE

LATEST LICENSURE NUMBERS

(as of 7/18/24)



- 36 Jurisdictions have limited licensure exceptions
- 20 Jurisdictions have telehealth registration processes
- 14 States have both limited exceptions and a telehealth registration process
- 11 States don't have specific exceptions/registration (9 are members of compacts)
- 5 Jurisdictions are members of no compacts
- 2 States have no exceptions/registration/compact

See [CCHP Licensure Fact Sheet](#)

Limited Licensure Exceptions

Often narrow, specific to certain circumstances/providers, and inconsistent across states

– examples include:

- Provider consultations (most common/limited)
- Prior established relationship/Infrequent interactions
- Emergencies
- Mental health and life-threatening diseases

Telehealth License/Registration Process

Alternative to full in-state licensure, often go by different names, specific to certain providers, have varying requirements and fees similar to licensure

Interstate Licensure Compacts

Structures vary, specific to different provider types, generally seek to allow providers to meet only one approval process (through the Compact) to participate in multiple states (Compact member states), as long as hold a license in good standing in home state



COURT CASES

MacDonald, et al. v. Sabando,

No. 1:23-cv-23044 (D. N.J.), filed Dec. 13, 2023

Asserts New Jersey's licensure restrictions on the use of telehealth are unconstitutional as they violate:

- [Commerce Clause of the US Constitution](#) because Congress regulates and impacts interstate commerce and not within state authority
- [Privileges and Immunities Clause](#) – State licensure laws unduly burden out-of-state practitioners because they must maintain a New Jersey license when they may have very few patients to treat who are physically located in New Jersey.
- [First Amendment](#) right to speech has been violated by limiting the ability to discuss potential treatment and follow-up care.
- [Due Process Clause](#) – Which protects the rights of parents to direct the care, upbringing and education of their children

McBride, et al. v. Lawson,

No. 2:24-cv-01394 (E.D. Cal.), filed May 16, 2024

The lawsuit asserts that California's requirement for out-of-state doctors to be licensed in California to provide telehealth services violates the US Constitution based on similar arguments as *MacDonald*:

- [Commerce Clause](#)
- [Privileges and Immunities Clause](#) by placing undue burdens on out-of-state physicians and their patients.
- [First Amendment](#) rights of both doctors and patients to communicate freely without state-imposed barriers.



LINK TO DR. HUGHES VIDEO

<https://www.youtube.com/watch?v=7VjKanD5pQ8>



Panel Q&A

Please submit questions using the Q&A function.

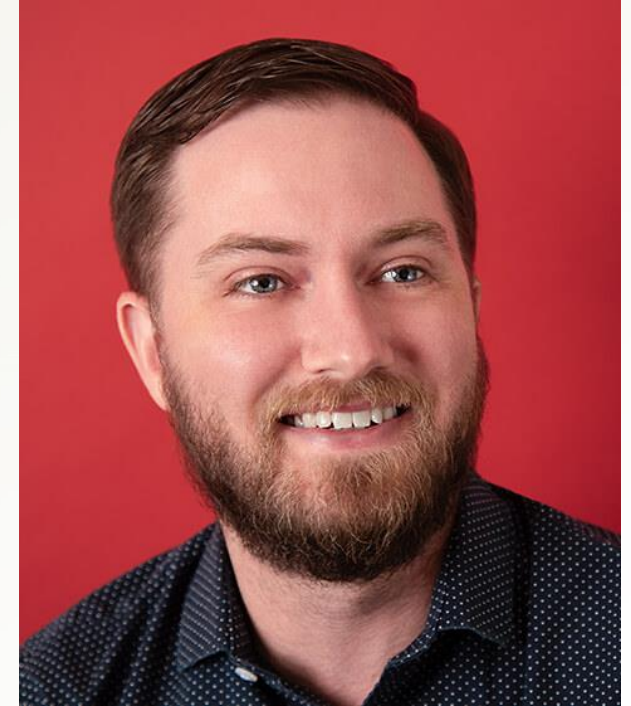
THANK YOU!



Helen Kinsman Hughes
Medical Director, Office of
Telemedicine
Johns Hopkins Medicine

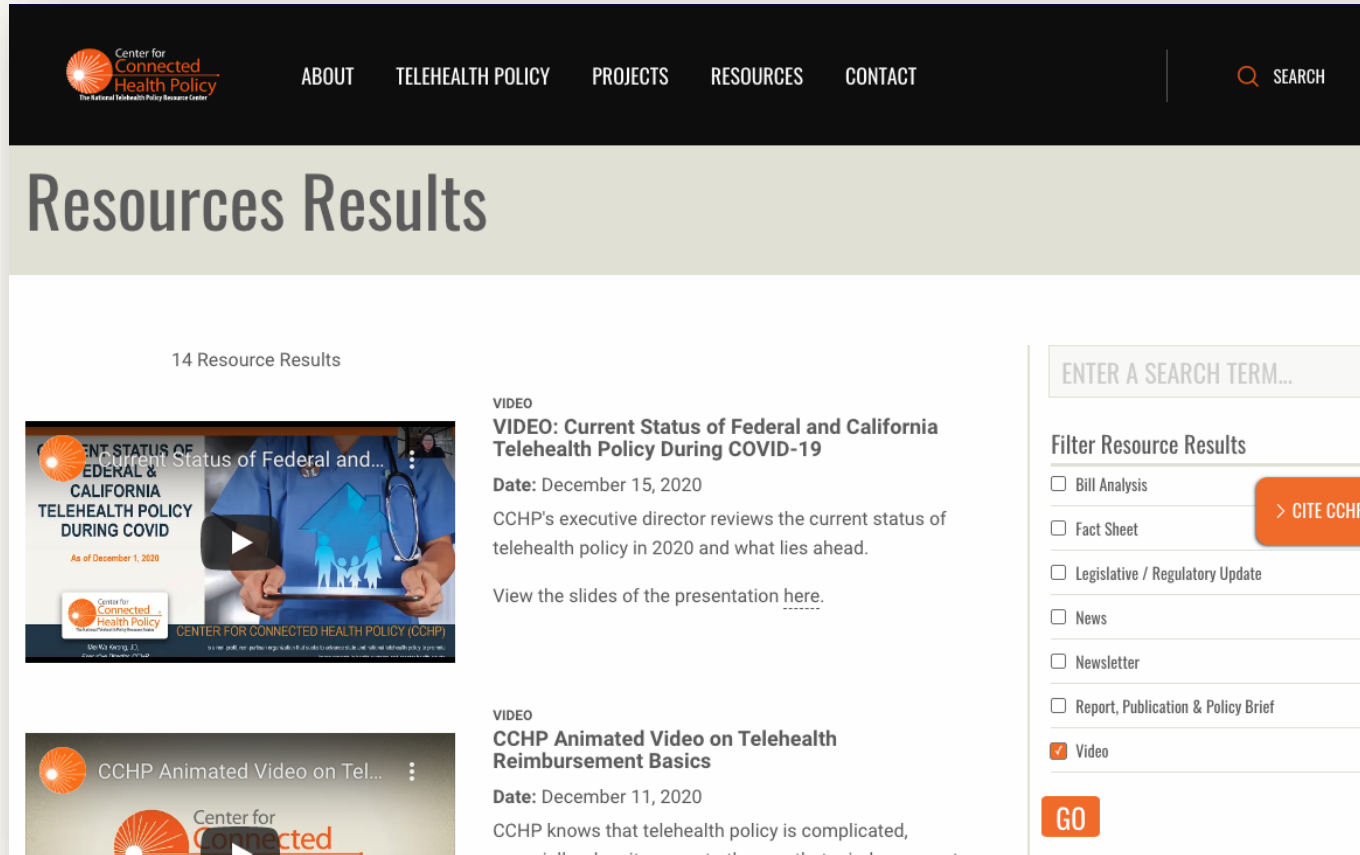


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WEBINAR RECORDING & RESOURCES



The screenshot shows the CCHP website's 'Resources Results' page. The header includes the CCHP logo and navigation links: ABOUT, TELEHEALTH POLICY, PROJECTS, RESOURCES, and CONTACT. A search bar is located on the right. The main content area displays '14 Resource Results'. The first result is a video titled 'VIDEO: Current Status of Federal and California Telehealth Policy During COVID-19', dated December 15, 2020. The description states: 'CCHP's executive director reviews the current status of telehealth policy in 2020 and what lies ahead. View the slides of the presentation here.' The second result is a video titled 'CCHP Animated Video on Telehealth Reimbursement Basics', dated December 11, 2020, with a description: 'CCHP knows that telehealth policy is complicated, especially when it comes to the way that reimbursement...'. A sidebar on the right contains a search bar labeled 'ENTER A SEARCH TERM...', a 'Filter Resource Results' section with checkboxes for 'Bill Analysis', 'Fact Sheet', 'Legislative / Regulatory Update', 'News', 'Newsletter', 'Report, Publication & Policy Brief', and 'Video' (which is checked), and a 'GO' button. A '> CITE CCHP' button is also present.

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