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VA Proposed Rule Would Expand Telemedicine and Override State Licensure Barriers

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On October 2, the Veterans Administration (VA) proposed a new rule that would expand access to quality care and availability of mental health, specialty, and general clinical care for VA beneficiaries through the use of telemedicine.

In their proposed rule, the VA explains the difficulty it has faced attracting a sufficient number of providers to furnish telemedicine services because state professional licensure laws restrict telehealth activities to within state borders. Providers fear discipline from those states for the unlicensed practice of medicine for treating veteran beneficiaries outside of the state in which they are licensed. In addition, in the current telehealth program, many VA medical centers only allow telehealth on federal property out of concern regarding these state limitations, which has hindered the telehealth program from expanding and reaching beneficiaries who need treatment but are not on federal property (e.g., those who are in their homes).

The proposed rule aims to address these issues by permitting all VA physicians to treat patients via telehealth across state lines, regardless of where they're licensed. This federal law would preempt state restrictions on licensure and telehealth, as most states currently restrict providers (including VA clinicians) from treating patients located in that state if the provider is not licensed there.

Relaxing these requirements will encourage greater provider participation in the VA's telemedicine program. In addition, these new rules would allow veterans, from their home, to use a mobile app, called VA Video Connect, to connect with their healthcare providers and conduct a home videoconferencing session. The proposed rule explains that eliminating veteran suicide and providing access to mental health care is the VA's "number one priority" and this proposed rule would improve the VA's ability to reach some of its most vulnerable beneficiaries. The commentary in the rule explains that telehealth "empowers beneficiaries to take a more active role in their overall health" and that the program is "particularly important for beneficiaries with limited mobility, or for whom travel to a health care provider would be a personal hardship." Rural connectivity,

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decreasing wait times for veterans, improving access to mental health services, and an overall increase in access to care is the driving force behind these efforts.

In fiscal year 2016, VA practitioners saw 702,000 patients via telemedicine in 2.17 million episodes of care. Almost half of those who received telemedicine care were in rural areas. The VA has already seen improved patient care as a result of the VA's expansion of telemedicine services. For example, the VA reports there was a 31 percent decrease in VA hospital admissions for beneficiaries enrolled in the VA telehealth monitoring program for non-institutional care and chronic care management. Additionally, the VA reports a 39 percent reduction in the number of acute psychiatric VA bed days of care.

The commentary states, "This rule would ensure that VA health care providers provide the same level of care to all beneficiaries, irrespective of the State or location in a State of the VA health care provider or the beneficiary." The AMA supports this proposed rule. In its statement supporting the proposed rule, the AMA emphasized that the rule is narrowly tailored to only apply the multi-state licensure pre-emption to VA-employed providers who are directly controlled and supervised by the VA, and does not cover contracted physicians or providers who are not directly controlled and supervised.

Those interested in providing feedback can submit written comments until November 1, 2017.