

**VA**U.S. Department  
of Veterans Affairs

Medical Ex. Board - 9/18/19  
Handout - FSMB  
Matters  
Under Secretary for Health  
Washington DC 20420  
OPEN

August 21, 2019

Humayun J. Chaudhry, DO, MACP  
President and CEO  
Federation of State Medical Boards  
1300 Connecticut Avenue, NW, Suite 500  
Washington, DC 20036

Dear Dr. Chaudhry:

I am writing to seek your feedback and support in communicating to your State boards the intent of the Department of Veterans Affairs (VA) to amend its regulations to remove barriers and accelerate access to telehealth for our Veterans.

VA published a final rule in May 2018, 83 FR 21897, which established 38 CFR 17.417 and granted VA health care providers the ability to practice telehealth within their scope of practice, functional statement, and/or in accordance with privileges granted to them by VA, in any location, within any State, irrespective of the State or location within a State where the health care provider or the beneficiary is physically located.

In June 2018, section 151 of Public Law 115-182, the John S. McCain III, Daniel K. Akaka, and Samuel R. Johnson VA Maintaining Internal Systems and Strengthening Integrated Outside Networks Act of 2018, or the VA MISSION Act of 2018, amended title 38 of the United States Code (U.S.C.) by adding a new section 1730C, titled "Licensure of health care professionals providing treatment via telemedicine." Section 1730C(d) and § 17.417 preempt conflicting State law and are in accordance with Article VI of the U.S. Constitution (Supremacy Clause). Specifically, section 1730C(d)(1) states "The provisions of this section shall supersede any provisions of the law of any State to the extent that such provision of State law are inconsistent with this section." Section 1730C(d)(2) states "No State shall deny or revoke the license, registration, or certification of a covered health care professional who otherwise meets the qualifications of the State for holding the license, registration, or certification on the basis that the covered health care professional has engaged or intends to engage in activity covered by subsection (a)."

Section 1730C provides a definition of covered health care professionals that is broader than the definition of health care provider under § 17.417(a). To maintain consistency between section 1730C and § 17.417, VA is planning to amend § 17.417. VA is proposing to amend the definition of health care provider to instead refer to health care professionals and include those individuals appointed under 38 U.S.C. 7306, 7401, 7405, 7406, 7408 and Title 5; we note this list would allow VA to include trainees. VA

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also proposed to clarify that in situations where VA practice of telehealth is inconsistent with a State law or State license, registration, or certification requirement, the health care professional is required to adhere to VA policy or VA's standards for quality.

VA recognizes that States have an important interest in the health and well-being of their residents. VA will continue to work closely with individual State boards to ensure there is clear communication of VA's policy and practice, and to follow through on VA's commitment to cooperation and collaboration with State Boards as official licensing bodies. At the same time, telehealth expansion is needed expeditiously to immediately enhance access to critical VA services. As such, VA believes the proposed amendments described above would be consistent with VA's statutory authority and maintain a balance between the interests of States and the Federal Government.

VA is seeking your input and would be happy to discuss this matter further with you or your member boards. Please provide questions or comments no later than 30 days from the date of this letter to Dr. Kevin Galpin, Director of Telehealth Services, at (404) 771-8794 or by email at Kevin.Galpin@va.gov.

Thank you for your attention to this important matter. I know we all share a deep commitment to the health and well-being of America's Veterans.

Sincerely,



Richard A. Stone  
Executive in Charge