

## VA Final Rule Dissolves Barriers Between States for Telehealth Services

Late last summer former U.S. Department of Veterans Affairs (VA) Secretary David Shulkin, MD, along with President Donald Trump, began to spread the word about their “Anywhere-to-Anywhere” initiative, a plan to increase the utilization of telehealth platforms within the VA.

“We’re going to be issuing a regulation that allows our VA providers to provide telehealth services from anywhere in the country to veterans anywhere in the country, whether it’s in their homes or any location,” Shulkin had said. “We call it ‘anywhere to anywhere’ VA healthcare. That’s a big deal.”

Shulkin also worked closely with the Department of Justice and the American Office of Innovation (headed by Jared Kushner) to build a more efficient bridge between the VA and the Defense Department, one that would decrease wait times for patients and increase their access to and choice of physicians.

Despite the overwhelmingly enthusiastic response the initiative received from lawmakers and healthcare professionals, Anywhere-to-Anywhere would have remained more symbolic than pragmatic without the backing of legislation since individual states could still dictate how/when telehealth was used. Since the VA’s announcement of the measure in August, Congress has passed bills to buttress the initiative (including key bipartisan legislation passed in November, “The Veterans E-Health and Telemedicine Support (VETS) Act of 2017”).

And recently, with the finalization of a telehealth rule that allows providers to practice across state lines, the initiative has gained the steam it needs.

**“...the greatest possible access to mental health care, specialty care, and general clinical care.”**

Earlier this month, the VA passed a final rule that supersedes states’ regulations and permits providers to treat patients residing in other states. According to the announcement, the final rule “clarifies that VA healthcare providers may exercise their authority to provide healthcare through the use of telehealth, notwithstanding any State laws, rules, licensure, registration or certification requirements to the contrary.” The rule will go into effect on June 11<sup>th</sup>.

“Just as it is critical to ensure there are qualified health care providers on-site at all VA medical facilities,” the rule states, “VA must ensure that all beneficiaries, specifically including beneficiaries in remote, rural, or medically underserved areas, have the greatest possible access to mental health care, specialty care, and general clinical care.”

**“...it would be impractical for VA to lobby each State...”**

The expansion of telemedicine is widely seen as a good thing for healthcare overall. But untangling potential state licensing knots has been one practical aspect that can slow that expansion. Therefore, the logical step was for the VA to supplant state authority when it came to the intersection of state licensure and the demand for interstate telehealth.

In justifying its need to override state regulations to allow for broader telehealth access for veterans, the agency

stated that “it would be impractical for VA to lobby each State to remove any restrictions that impair VA’s ability to furnish telehealth services to beneficiaries and then wait for the State to implement appropriate changes.”

## **Long wait times and inaccurate reporting didn’t look good for the VA in 2014**

In addition to permitting providers to practice across state lines via the VA telehealth platform (thereby especially beneficial to veterans in rural or underserved areas who would otherwise be forced to travel long distances to seek care), the final rule also broadens access to critical care (such as mental health services) and is designed to speed responsiveness for the patient when care is most needed.

Perhaps this is in part a reaction to major criticism leveled against the agency in 2014 regarding the unusually long wait times patients were often forced to endure before receiving service, as well as the allegations that VA staff inaccurately reported on those statistics.

## **“Anywhere-to-Anywhere” indeed**

Prior to this legislation, VA physicians in good standing in one state were allowed to practice in another state, but not via a telehealth platform. This measure carves out a state licensure exemption for VA doctors practicing telemedicine.

In a nutshell, according to the rule: “VA developed a telehealth program as a modern, beneficiary- and family-centered health care delivery model that leverages electronic information or telecommunication technologies to support clinical health care, patient and professional health-related education, public health, and health administration, irrespective of the State or location within a State where the health care provider or the beneficiary is physically located at the time the health care is provided.”

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