



Summary: *These policy best practices are based on industry-leading ideas and experiences about how to make health care more accessible and affordable. Many of these provisions were the law of the land during the COVID pandemic, and the resulting flexibility and freedom allowed for a more effective response to the pandemic. Positive lessons from the pandemic should inform policy going forward, and this model policy transforms the best of the COVID-era responses into long-term policy prescriptions.*

Telemedicine Freedom Act

Section 1.

Health care providers licensed in this [state/any state] may practice to the full extent of their professional training and expertise, and all modalities of telemedicine, whether live or asynchronous, shall be allowed under the laws and regulations of [State] when the standard of care does not require an in-person examination.¹

Section 1. (Narrower alternative)

Use of telemedicine for the purpose of consulting a specialist licensed in any state to determine whether treatment with that specialist is appropriate or for follow-up regarding treatment with that specialist does not require in-state licensure when the actual treatment will occur in person in a state where the specialist is licensed.

- a. As used in this subsection, “specialist” means:
 - i. A health care provider qualified to diagnose, treat, and manage rare injuries or illnesses. “Rare injuries or illnesses” means medical conditions that have a low prevalence in the population, requiring specialized medical attention or treatment that is not common locally,
or
 - ii. A health care provider certified or eligible for certification by a private or public board or parent association, including, but not limited to, a multidisciplinary board or association, that is (i) an American Board of Medical Specialties member board, (ii) a board or association with equivalent requirements approved by that health care provider’s licensing board, or (iii) a board or association with an Accreditation Council for Graduate Medical Education approved postgraduate training program that provides complete training in that specialty or subspecialty.

¹ Alternatively: “... and when a provider-patient relationship was established in-person.”



PACIFIC LEGAL FOUNDATION

Section 2.

No law or regulation shall dictate the physical locations where patients can receive telehealth services otherwise allowed in this state, the physical locations where providers can deliver such telehealth services, or require a health care provider or assistant to physically supervise or monitor a patient when they receive such telehealth services.

Section 3.

Medicaid and other public health programs shall be authorized to reimburse providers when they deliver telehealth services to program recipients. No law or regulation shall require payers to reimburse telehealth services at a prescribed rate.

Section 4.

No law or regulation shall add information compliance burdens beyond those required by federal law.

Section 5.

A court may issue declaratory, injunctive, or other equitable relief and nominal damages to persons who prove a violation of this policy.

- a. A health care provider whose ability to deliver telehealth service has been burdened in violation of this policy may assert that violation as a claim for relief [in the appropriate court] and as a defense in any judicial or administrative proceeding.
- b. A person whose ability to receive telehealth service has been burdened in violation of this policy may assert that violation as a claim for relief [in the appropriate court].