



State of West Virginia
Board of Respiratory Care
106 Dec Drive, Suite 1
Charleston, WV 25311

Phone: 304 558-1382

Fax: 304 558-1383

January 26, 2024

Kyle Zebley
901N Glebe Road
Suite 850
Arlington, VA 22203

Dear Mr. Zebley,

The WV Board of Respiratory Care appreciates your interest in the practice of respiratory care in the State of West Virginia.

In regard to your public comment concerning our proposed rule regarding the practice of a West Virginia licensed Respiratory Therapist in the field of Telehealth, we feel our rule as written is uniform with other healthcare professionals in West Virginia providing Telehealth services.

Our board will continue to monitor our rules and make future changes as required.

Again, thank you for your interest and concern in the protection of the citizens of the State of West Virginia.

For The Board,

A handwritten signature in black ink, appearing to read "Tracy S. Matthews".

Tracy S Matthews, MA, RRT, LRTR
Board President



October 4, 2023

Nancy Massey
Executive Secretary
West Virginia Board of Examiners in Counseling
815 Quarrier Street, Suite 212
Charleston, WV 25301

RE: ATA ACTION COMMENTS ON THE PROPOSED RULE FOR RESPIRATORY PRACTICE

Dear Ms. Massey and members of the West Virginia Board of Respiratory Care,

On behalf of ATA Action, I am writing to provide our comments on the proposed rule for respiratory telehealth practice.

ATA Action, the American Telemedicine Association's affiliated trade association focused on advocacy, advances policies to ensure all individuals have permanent access to telehealth services across the care continuum. ATA Action supports the enactment of state and federal telehealth policies to secure telehealth access for all Americans, including those in rural and underserved communities. ATA Action recognizes that telehealth and virtual care have the potential to truly transform the health care delivery system -- by improving patient outcomes, enhancing safety and effectiveness of care, addressing health disparities, and reducing costs -- if only allowed to flourish.

ATA Action is in strong support of policy change that eases access to high quality and affordable health care and applauds the Board for working to guarantee that patients can access the care they need through telehealth. ATA Action believes the proposed rule would be a rational step forward for telehealth policy in West Virginia. By establishing regulations regarding the use of telehealth by respiratory care providers, the Board will increase patient access to telehealth care, provide greater patient choice for those in need of respiratory care and help to make care more accessible to those in rural or underserved communities.

ATA Action is supportive of many aspects of the proposed rule such as the modality neutral definition of telehealth and the ability to establish practitioner-patient relationships through telehealth; however, we do have concerns we believe the Board should address before adopting the proposed rule.

First, section §30-11-4 of the proposed rule, entitled "Practitioner-patient relationship through telehealth," contains inconsistencies which would be confusing to practitioners practicing telehealth care. Section 4.1 states that "A practitioner-patient relationship may be established through video, audio or written forms of communication, such as e-mail or text-based messaging, or any combination thereof." Meanwhile, the following section, 4.2, states "If an existing practitioner-patient relationship is not present prior to the utilization of telehealth technologies, or if services are rendered solely through telehealth technologies, a practitioner-patient relationship may only be established through the use of telehealth technologies which incorporate interactive audio, real-time videoconferencing, or similar secure video services during the initial patient evaluation." These two sections appear to contradict each other regarding the permissible modalities for establishing a practitioner-patient relationship. While we support that the Board is



attempting to take a modality neutral approach, ATA Action requests that the Board make corrections to ensure clarity for practitioners.

Additionally, we encourage the Board to amend section 5.1.b. of the proposed rule to remove the term “verbally” from the verification requirements of the patient’s identity and location. The modality neutral definition of telehealth used by the Board in section 2.3 allows for delivery of care through both synchronous and asynchronous modalities, which ATA Action supports. However, the requirement to verbally verify a patient’s location and identity does not align itself with asynchronous care, which does not include synchronous verbal communication. Leaving this requirement in place could negatively impact the ability of practitioners to provide asynchronous care, contrary to the proposed rule’s efforts to expand access to telehealth care.

Thank you for the opportunity to comment. We encourage the Board to amend the proposed rule to address our concerns and then proceed with adoption in the interest of expanding West Virginia patients’ access to telehealth respiratory care. Please let us know how we can be helpful in your efforts to adopt common-sense telehealth policy in West Virginia. If you have any questions or would like to discuss further the telehealth industry’s perspective, please contact me at kzebley@ataaction.org.

Kind regards,

A handwritten signature in black ink, appearing to read 'Kyle Zebley', written in a cursive style.

Kyle Zebley
Executive Director
ATA Action

Forwarded: ATA Action Letter

Board of Respiratory Care, WV <wvborc@wv.gov>
From: Amber Legg <amber.legg@wv.gov>

Tue, Nov 14, 2023 at 8:53 AM

----- Forwarded message -----

From: **Tom Mann** <tmann@ataaction.org>
Date: Fri, Oct 27, 2023 at 3:07 PM
Subject: ATA Action Letter
To: wvborc@wv.gov <wvborc@wv.gov>
Cc: nancy.j.massey@wv.gov <nancy.j.massey@wv.gov>

Dear Ms. Massey and members of the West Virginia Board of Respiratory Care,

On behalf of ATA Action, I am writing to provide our comments on the proposed rule for respiratory telehealth practice. Please find our letter in the attached and feel free to reach out with any questions.

Kind regards,



Tom Mann
Manager, State Government Relations

901 N. Glebe Road, Ste. 850 | Arlington, VA 22203
Mobile: 703.269.3834
ataaction.org

**ATA Action is an affiliated trade organization of the American Telemedicine Association*

 **WV RESPIRATORY CARE ATA ACTION LETTER.pdf**

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