



March 4, 2022

The Honorable Mariannette Miller-Meeks
U.S. House of Representatives
1716 Longworth HOB
Washington, D.C. 20515

The Honorable Mike Kelly
U.S. House of Representatives
1707 Longworth HOB
Washington, D.C. 20515

The Honorable Morgan Griffith
U.S. House of Representatives
2202 Rayburn HOB
Washington, D.C. 20515

Dear Representatives Miller-Meeks, Kelly and Griffith:

On behalf of Nemours Children's Health, thank you for the opportunity to provide comments on your recent request for stakeholder input on the expansion of telemedicine and digital modernization efforts in the U.S. healthcare system. We appreciate your leadership on these critical issues and your continued commitment to improving access to telehealth supports and services. **As you consider policies and program improvements in telehealth, we urge you to reflect on the unique needs of children and their families and provide tailored approaches to promote and expand telehealth access to the pediatric population, especially those in underserved communities.**

ABOUT NEMOURS CHILDREN'S HEALTH

Nemours Children's Health is one of the nation's largest multistate pediatric health systems, which includes two free-standing children's hospitals and a network of nearly 75 primary and specialty care practices. Nemours seeks to transform the health of children by adopting a holistic health model that utilizes innovative, safe, and high-quality care while also caring for the health of the whole child beyond medicine. Nemours also powers the world's most-visited website for information on the health of children and teens, [Nemours KidsHealth.org](https://www.NemoursKidsHealth.org).

The Nemours Foundation, established through the legacy and philanthropy of Alfred I. duPont, provides pediatric clinical care, research, education, advocacy, and prevention programs to the children, families and communities it serves. For more information, visit [Nemours.org](https://www.Nemours.org).

EXECUTIVE SUMMARY

Since the onset of the pandemic and with the declaration of a public health emergency (PHE), we have seen unprecedented increases in the implementation and adoption of telehealth across the country. Telehealth flexibilities under federal and state waivers have increased access to a wide range of specialties, better leveraging the existing workforce as our nation works to address provider shortages. The flexibilities have given Nemours Children's Health (Nemours Children's), one of the largest multi-state pediatric health systems in the country, the ability to

receive reliable reimbursement for telehealth services, which has been critical as we support children and families during the pandemic. This difficult time has exacerbated a host of stressors for children, including dire mental health challenges. The telehealth flexibilities provided during the pandemic have enabled health systems to provide continuous, coordinated care and avoid potential negative consequences of delayed care across all specialties. Further, we are now seeing the potential of telemedicine (remote medical care), an essential component of telehealth, to augment in-person care and reduce inappropriate emergency department utilization leading to more efficient allocation of health system resources.

To promote the overall health and well-being of children in the United States and to advance policies and improvements in telehealth, Congress should:

- Extend all telehealth waivers and policies that allow patients to access telehealth during the COVID-19 pandemic through at least December 31, 2024 and make permanent the waivers and policies aimed at increasing access and removing barriers to telehealth.
- Advance legislation providing temporary licensing reciprocity for health care professionals for any type of services provided, within their scope of practice, to a patient located in another state during the COVID-19 pandemic and any future public health emergency, and consider legislation to provide long-term licensure reciprocity, with appropriate guard rails, for telehealth across state lines.
- Advance legislation promoting access to telehealth services for children through Medicaid and the Children’s Health Insurance Program (CHIP).
- Advance legislation expanding the scope of required guidance, studies, and reports that address the provision of telehealth services under Medicaid.
- Consider legislation to allow schools and early care and education centers to be considered as eligible recipients of funding for both broadband and telehealth equipment.

Telemedicine Expansion Questions from the Subcommittee

Question 1: Which flexibilities created under the COVID-19 public health emergency should be made permanent?

The declaration of the current PHE has allowed the Centers for Medicare and Medicaid Services (CMS) to use Section 1135 waivers to implement a number of innovative approaches to health care delivery via telehealth. Under the PHE, CMS has broadened access to Medicare, Medicaid and the Children’s Health Insurance Program (CHIP) telehealth services so that patients can receive a wider variety of health care services. Further, since the PHE declaration, every state and the District of Columbia issued temporary waivers to increase telehealth flexibilities (in both public and commercial plans).¹ Section 1135 federal waivers, together with state waivers, have removed many longstanding barriers to telehealth implementation and utilization, helping to expand telehealth access in ways we have never seen before. While these waivers have different jurisdictions, they are intertwined and are reliant on the PHE being continually extended.

Because of federal and state waivers, we can now say definitively that telehealth is a critical tool for increasing access to a range of health services, helping to better leverage the existing workforce as our nation works to address a significant shortage of providers. At Nemours Children’s, the ability to receive reliable reimbursement for telehealth services across our specialties – because of the current flexibilities - has been critical. We have leveraged telehealth

across all our specialties, experiencing over a 700% increase in visit volume compared to pre-pandemic volumes. The flexibilities provided during the pandemic have helped our doctors and patients work together to avoid negative consequences of delayed care, whether preventive, routine or chronic.

Waivers, such as expanding what are considered covered sites of service for telehealth, have allowed our patients to access care via telehealth in their own homes, enabling continuity of care. Additionally, allowing audio-only visits to be reimbursable has been beneficial to our patients, some of whom could not access video. For example, audio-only has been critical for families without internet and/or smart phones; families in transit; and adolescents experiencing discomfort discussing personal issues while on camera.

Further, as a multi-state pediatric health system, we know the administrative burden our health care providers face to provide telehealth services across state lines. Prior to the pandemic, our health care providers operating in Florida, Delaware, New Jersey or Pennsylvania would have to go through very long and costly processes to get licensed in multiple states to provide telehealth across state lines, even for patients within the Nemours Children's system. Since the PHE declaration, every state in the nation waived or streamlined the process for allowing out-of-state providers to register with the state to provide telehealth services, though most did so temporarily.^{2,3,4} This has helped to increase access to care for children across the country. Nemours Children's is supportive of the Section 1135 waiver's federal medical licensure exemption and of states' actions to provide streamlined approaches to licensure for healthcare professionals to offer telehealth services across state lines. Unfortunately, many state licensure waivers have expired, returning to previous costly and restrictive policies.

We strongly recommend that Congress extend through at least December 31, 2024, all telehealth waivers and policies that have allowed patients to access telehealth during the COVID-19 pandemic. More specifically, we urge Congress to make permanent the following waivers and policies to increase access and remove barriers to telehealth:

- Remove reimbursement restrictions for geographic and originating site requirements and add the beneficiary's home as an originating site;
- Remove reimbursement restrictions to allow health care providers to deliver care to both established and new patients;
- Permanently make audio-only visits reimbursable under Medicaid and commercial plans;
- Permanently address interstate licensure challenges. Two intermediate steps could include:
 - Granting the Department of Health and Human Services (HHS) Secretary the authority to continue to issue federal medical licensure exemptions;
 - Enactment of the [Temporary Reciprocity to Ensure Access to Treatment \(TREAT\) Act](#) (S.168/H.R.708), which would provide temporary licensing reciprocity for health care professionals for any type of services provided, within their scope of practice, to a patient located in another state during the COVID-19 pandemic.
- Expand the list of reimbursable telehealth services to include a wide variety of specialties, including primary care and behavioral health; and

- Ensure payment parity for telehealth services.

Question 2: How does telehealth affect healthcare costs in the short-term, medium-term, and long-term? Would you be willing to share aggregate data?

Nemours Children's ventured into the telehealth space in 2015 when we launched our direct-to-consumer urgent care telehealth program. To examine how our telehealth program impacts costs, Nemours Children's conducted a study of our telehealth program in Florida (from October 2015 to June 2017) and found that the availability of telehealth successfully and appropriately redirected 27.9 percent of surveyed families away from emergency departments. If the same percentage of our full patient population in Florida were to use telehealth instead of the emergency department, we projected a cost avoidance of \$134 million to the Florida healthcare system, including both public and commercial payers, during that time period.⁵

Since then, we have incorporated primary and specialty care into the telehealth program and have integrated our program into a mobile app, the *Nemours App*, that combines our health system's digital tools, technologies, and resources to create a patient-centric telehealth experience. Our strategy enabled us to swiftly adapt to the challenges brought on by the pandemic with stay-at-home orders and limited face-to-face interactions to prevent the virus' spread. Through our telehealth program, we have been able to expand our virtual urgent care offerings to patients discharged from the emergency department as well as to patients seeking help from our after-hour nurse triage lines. This initiative has helped us to better triage patient concerns to a lower cost setting while minimizing unnecessary emergency department usage.

More recently, Nemours Children's conducted 292,487 telehealth visits between 2020 and 2021, serving close to 110,000 unique pediatric patients across the country. While we have not yet collected and analyzed cost data in order to demonstrate cost reduction, we know that the recent telehealth flexibilities have enabled us to provide care across state lines more easily, improving access to care for many patients throughout the country. **Strategic investments in telehealth, like our telehealth program, have the potential to augment in-person care and reduce costs by encouraging more appropriate emergency department utilization and more efficient allocation of health system resources.**

Further, through our telehealth program, we continue to partner with local organizations to expand primary and specialty care through telehealth, increasing access to regions and care settings lacking pediatric expertise. As a children's health system, we understand that our pediatric patients are more likely to be involved in multiple systems including primary care, specialty care, sports, school, child care, and religious organizations. There are opportunities to leverage telehealth to improve health access and outcomes if we coordinate across these multiple systems of care to support our patients' needs. For example, school and pre-school-based telehealth could reduce access challenges for families, including transportation and missed work for parents, since children spend a large amount of their time in these settings. However, a major barrier for telehealth access is the cost of equipment, particularly as federal law restricts the ability of providers to donate equipment.

We encourage Congress to consider a pilot to allow schools and early care and education centers, including pre-schools, to be considered as eligible recipients of funding for both broadband and telehealth equipment, including but not limited to remote patient monitoring devices and diagnostic/evaluation equipment.

Question 3: For what services have you seen telehealth have a substitutive effect on costs and utilization? Are you willing to share data that shows these trends?

Prior to the onset of the pandemic, significant restrictions prevented nearly all providers from fully leveraging telehealth. Many visit types and provider types were not reimbursable via telehealth, and reimbursement was further complicated by multiple state and payer policies related to coverage and billing. In addition, licensure restrictions made it prohibitively expensive and difficult for providers to extend access to care across state lines. This limited our ability to collect comprehensive, accurate and actionable data.

As these restrictions eased under temporary waivers, we have been able to demonstrate that telehealth has had a substitutive effect on utilization across numerous specialties. When in-person access to hospitals and clinics was limited due to COVID-19 spread, our visit volumes fell significantly. Telehealth allowed us to provide access to families, though overall volumes still remained lower across the board. As waivers were implemented and families became accustomed to using telehealth, our volumes steadily increased. Our data indicates that families used telehealth instead of in-person care, when appropriate. While overall utilization rates did not increase above prior years, a much larger proportion of visits occurred virtually than before the pandemic.

In 2021, our top five pediatric specialties for telehealth included: psychology, primary care, communicative disorders, psychiatry, and neurology. In some cases, we expect the shift toward telehealth to be permanent. Many low acuity pediatric conditions like colds, influenza, skin infections and many others, can be managed safely and effectively with primary care telehealth visits. As such, in 2021 scheduled primary care appointments made up almost 20% of all of our telehealth visits. Parents also value access to on-demand urgent care as well, when a primary care appointment is unavailable after-hours.

Further, at a time when children and youth are experiencing a surge in mental and behavioral health challenges, our telehealth program has been able to provide support for patients in need of therapy, counseling and other psychology services. Certainly, children and youth experiencing a mental health crisis are best served by more intensive, in-person care. However, access to routine and preventive mental and behavioral health supports can help avoid more serious and acute issues caused by unaddressed needs. In the latter part of 2021 and in 2022, across all of our Delaware Valley clinical practices, nearly 65% of all telehealth visits were psychology and psychiatry visits, which replaced in-person visits.

There are potential savings associated with providing virtual access to care via telehealth. Many families without access to primary care find themselves seeking care at urgent care practices or emergency departments, both of which are more costly. Moreover, delayed care can result in higher acuity needs across a range of physical and mental health issues, increasing the overall cost of care. Telehealth can serve as a multi-functional tool to ensure children and families

receive appropriate care by either providing telehealth access to a clinician or directing families to the most appropriate in-person care setting.

Nemours Children’s encourages Congress to pass the following legislation which would increase access to telehealth, including tele-behavioral health for children in Medicaid the CHIP:

- **[Telehealth Improvement for Kids' Essential Services Act \(TIKES\) Act \(S.1798/H.R.1397\)](#)**, which would promote access to telehealth services for children through Medicaid and CHIP, as well as study children’s utilization of telehealth to identify barriers and evaluate outcomes.
- **[Enhance Access to Support Essential Behavioral Health Services \(EASE\) Act \(S.2112/H.R.4036\)](#)** to expand the scope of required guidance, studies, and reports that address the provision of telehealth services under Medicaid, including in schools. The bill would also remove several restrictions that limit access to behavioral health telehealth services under Medicare.
- **[Temporary Reciprocity to Ensure Access to Treatment \(TREAT\) Act \(S.168/H.R.708\)](#)**, (noted above).

Question 5: Should Congress allow for healthcare providers who hold a valid license in good standing in at least one state to practice via telemedicine in all states? Why or why not?

Yes. Nemours Children’s supports legislation and policies that provide long-term licensure reciprocity, with appropriate guard rails, for telehealth across state lines. State licensure compacts, while promising tools for expanding health care providers’ capabilities to practice across jurisdictions, do not achieve licensure reciprocity. Further, Section 1135 waivers are only applicable to federal requirements and do not apply to state requirements for licensure, which vary from state to state. The national PHE declaration has allowed states to make their own emergency declarations, enabling the states to pass waivers to further expand telemedicine. Because each state has taken its own approach to issuing licensure flexibilities, there is no consistent national standard. Some states have introduced an expedited licensing process while others have provided full waivers of licensing requirements for out-of-state providers.

As of January 2022, 25 states have ended their emergency declarations, letting telehealth waivers expire. This includes Florida and Pennsylvania. However, Florida has enacted legislation that allows out-of-state providers to register with the state under a telehealth-specific license to provide care⁶ and Pennsylvania still has licensure flexibilities in place until March 2022.⁷ The expiration of telehealth waivers has led to confusion amongst patients, providers and payers. For example, when a state rolls back its telehealth licensure waivers, multi-state health systems operating in the state (with providers in other states providing telehealth), have to rush to notify their patients in the state with the expired waiver that their telehealth appointments are cancelled. We have seen this scenario play out across the country, leading to gaps in care and administrative burdens. At least 25 states and D.C. still have licensure flexibility waivers in effect, including Delaware and New Jersey.⁸ Florida, New Jersey, Pennsylvania and Delaware’s licensure flexibilities have enabled Nemours Children’s to serve more families across state lines, including in many areas with high provider shortages, particularly in mental health. The

Children’s Hospital Association (CHA) has noted that the shortages in the mental health workforce are projected to increase over time with severe shortages in pediatric specialties. The telehealth flexibilities have enabled Nemours Children’s to ensure that we have the necessary safeguards in place to provide continuity of care for our patients.

While we have made progress in telehealth expansion, the patchwork of policies, rules and regulations will remain a barrier unless the federal government acts to bring more alignment, predictability and clarity to telehealth policies. **We urge Congress to work with CMS to encourage states to develop nationwide or regional licensure reciprocity agreements so that patients have access to their providers and specialists during non-emergency times.**

Question 6: How will artificial intelligence affect access, delivery, and cost of healthcare and the role it plays in modernization?

There are several areas where artificial intelligence (AI) and machine learning (ML) (AI/ML) could lead to substantial improvements in how we care for patients. However, it is worth noting that advancements in AI/ML to improve health outcomes will require significant financial investments and collaboration amongst the public and private sectors. There are two specific examples of opportunities where AI/ML could be used to improve population health:

- (1) A potential area of opportunity to improve access and delivery is to utilize AI/ML to advance our ability to learn from the data we routinely collect for our Electronic Health Record (EHR) through the application of natural language processing (NLP)¹. Most of the current predictive analytics AI/ML applications have used only discrete data elements (such as diagnostic codes, laboratory codes, and results that are stored as specific values such as BMI and blood pressure or concepts such as "positive," "negative," or "not found"). A wealth of additional – and sometimes crucial – information is available in free text notes that clinicians save with most encounters. These notes can provide insights on SDOH factors that can impact patients’ health outcomes. Recent advances in NLP techniques allow semantic interpretation of EHR notes, making it possible to query notes for specific concepts that impact care, such as a patient's ability or willingness to adhere to prescribed treatment, for example, because their notes indicate that they lack transportation needed to get to appointments or pick up medication.
- (2) Another potential area of opportunity would be to utilize intelligent conversational agents, known as Computer Generated Imagery (CGI) personas, to conduct screening interviews with patients during initial telehealth sessions. These CGI personas could use natural sounding speech synthesis and accurate automatic speech recognition. The agents would be able to converse in multiple languages and would be familiar with multiple dialects or idioms. With access to a patient’s EHR, the agent could screen for complaint and history information and present to the health care provider a concise summary of highly relevant information to guide them in the subsequent telehealth encounter. Further, the agents would have access to current medical literature through

¹ NLP a type of computational linguistics that uses ML to power computer-based understanding of how people communicate with each other.

sources like PubMed and could aggregate relevant external sources of data that may be useful to health care providers and patients.

CONCLUSION

Nemours Children's stands ready to leverage our expertise and relevant experiences to assist the House of Representative's Healthy Future Task Force to advance telehealth legislation. Thank you for your consideration of our recommendations, and we look forward to continued collaboration. Please do not hesitate to reach out to vy.oxman@nemours.org or katie.boyer@nemours.org with questions or requests for additional information.

Sincerely,



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¹ Alliance for Connected Care. State Telehealth and Licensure Expansion Covid-19 Dashboard. (2022, February 10). <https://connectwithcare.org/state-telehealth-and-licensure-expansion-covid-19-chart/>

² Centers for Medicare & Medicaid Services. (2020, March 16). Section 1135 Flexibilities Requested in March 13, 2020 Communication. Medicaid.gov. <https://www.medicaid.gov/state-resource-center/downloads/fl-section-1135-appvl.pdf>

³ Centers for Medicare & Medicaid Services. (2020, March 27). Section 1135 waiver flexibilities - Delaware coronavirus disease 2019. Medicaid.gov. <https://www.medicaid.gov/state-resource-center/disaster-response-toolkit/federal-disaster-resources/entry/5407>

⁴ Alliance for Connected Care. State Telehealth and Licensure Expansion Covid-19 Dashboard. (2022, February 10). <https://connectwithcare.org/state-telehealth-and-licensure-expansion-covid-19-chart/>

⁵ Shayan Vyas, Joanne Murren-Boezem, and Patricia Solo-Josephson. Telemedicine and e-Health (2018). <http://doi.org/10.1089/tmj.2017.0281>

⁶ The Florida Senate. HB 23: Telehealth. (2019). <https://www.flsenate.gov/Session/Bill/2019/23>

⁷ Alliance for Connected Care. State Telehealth and Licensure Expansion Covid-19 Dashboard. (2022, February 10). <https://connectwithcare.org/state-telehealth-and-licensure-expansion-covid-19-chart/>

⁸ Alliance for Connected Care. State Telehealth and Licensure Expansion Covid-19 Dashboard. (2022, February 10). <https://connectwithcare.org/state-telehealth-and-licensure-expansion-covid-19-chart/>