Issue: AZ Health

The Telemedicine Cliff Rapidly Approaches

COVID-19-driven Expansions Must be Permanent

Summary

The United States health care system has evolved to operate overwhelmingly by direct, in-person interactions between patients and their health care providers. The clinical workflows, economics of delivery, and reimbursements have all evolved to reinforce the face-to-face model of care.[1] However, the rise of telemedicine—the remote delivery of health care services, is not new. Medicare began reimbursement for some services in the late 1990s, and by late 2017, 48 states and the District of Columbia offered some type of Medicaid reimbursement. Adoption had been driven by health care reforms, increased use of electronic medical records, technology advancements, and the continual drive to lower costs.[2]

Until the COVID-19 pandemic, patient adoption had been slow; a McKinsey survey showed that in 2019 only 11% of American's used telemedicine.[3] On the other hand, private insurers and employers have continued to plan ahead for broader utilization. A United Healthcare survey showed that 52% of employers believe telemedicine will play a major role in health care delivery in the future.[4]

Like nothing before, the COVID-19 pandemic has accelerated the implementation of telemedicine by health care providers and has forced patients to get comfortable using virtual services. The largest study to date of telemedicine utilization in response to COVID-19 showed that at New York University Langone Health Center, virtual urgent care visits grew by over 680%, and virtual non-urgent visits by 4,345%.[5] Teledoc Health, one of the largest telemedicine platform providers, reported that for first quarter 2020 there was over a 90% increase in use across the U.S., translating to an impressive 1.5 million visits in one quarter alone.[6] [7]

Historically, telemedicine adoption has been limited primarily by heavy regulation and lack of coverage, as well as cost-sharing and reimbursement restrictions by insurers.[8] Regulations meant to protect patient privacy have served as a potent barrier to a health care model that can serve patients' best interest, particularly for disadvantaged or rural patients.

It is widely recognized that we are approaching a "telehealth cliff."[9] As a direct response to the COVID-19 pandemic, critical federal and state regulations impacting patients, providers, and insurers have been temporarily waived or modified. Private insurers have waived cost-sharing and extended coverage. Most of these changes, however, will expire at the declared end of the national public health emergency or earlier. As these provisions get set to expire, Arizona must have strategies in place to avoid losing valuable ground in telehealth adoption.

Arizona citizens' access to telemedicine is also significantly impeded by socioeconomic barriers and the digital divide—the gulf between those who have ready access to modern information and communication technology and those who do not.[10] Added to this is the critical lack of highspeed broadband communications statewide. These issues must be addressed hand-in-hand with proactive measures to ensure all Arizonans have access to telemedicine as part of their normal healthcare.

Telemedicine and Telehealth Defined

The terms "telemedicine" and "telehealth" are often used interchangeably, and simply mean the delivery of health-related services remotely over distance between the patient and health care providers. Telemedicine is often used narrowly to mean patient clinical services, whereas telehealth broadly includes other elements of health care such as provider and payor services.[11] The terms will be used interchangeably in this paper.

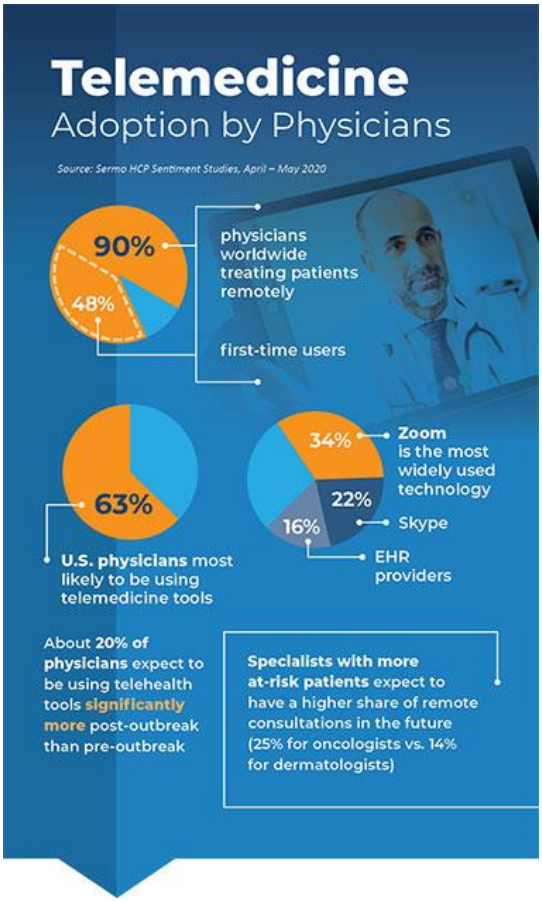
Arizona Statute

Arizona's legislative statute defines "telemedicine" as "the interactive use of audio, video or other electronic media, including asynchronous store-and-forward technologies and remote patient monitoring technologies, for the purpose of diagnosis, consultation or treatment."[12] The current statute specifically excludes "sole use of an audio-only telephone, a video-only system, a fax machine, instant messages or an email."

Recent Telemedicine Adoption

Use Changes during the Pandemic

A survey conducted in early April of nearly 1400 physicians worldwide showed a significant increase in physician first-time use of telemedicine. As shown in the accompanying figure, within the U.S., 63% of responding physicians reported a willingness to use telemedicine.[13]



Over 50% of telemedicine service delivery during the pandemic uses Zoom or Skype technology. In the U.S. these HIPAA-non-compliant communication platforms have been allowed for use during the pandemic. This illustrates the overwhelming need to secure approval for continued use of HIPAA (Health Insurance Portability and Accountability Act) non-compliant telehealth interfaces after the pandemic ends. Moreover, HIPAA regulations must be expanded to enable their future use and that of other emerging technologies.

Arizona Telemedicine Success Stories

According to the Arizona Medical Association, a majority of clinical practices across Arizona have adopted telehealth due to COVID-19. Mark Slyter, the CEO of Dignity Health East Valley in Maricopa County reports that now approximately 80% of Dignity practices are utilizing telemedicine as compared with 30% before the COVID-19 outbreak.[14] As of August, Blue Cross Blue Shield of Arizona data shows that telemedicine visits spiked *50 times higher* with the pandemic.[15] Selected success stories across Arizona include:

Maricopa County: Children and Mental Health Services [16] [17]

In early April, in the space of seven days, the Phoenix Children's Hospital (PCH) transitioned over 6,000 in-person appointments to telemedicine. Vinay Vaiday, the Chief Medical Information Officer reports, "there is overwhelming satisfaction from our clinicians as well as from patients and families." PCH learned that speed and communication are critical to success; they credit a nimble IT group which quickly adapted the Zoom platform for their needs and created a dashboard interface for the clinical supervisors and schedulers where everything is displayed in near-real time.

Mental health services are equally important, especially during this anxiety-producing time. The Governor's Executive Order in March 2020 required private insurers to cover telemedicine mental health services, services not previously covered by most insurance providers. Alevea Mental Health, located near Arizona State University's Tempe Campus, manages over 2,000 patients and transitioned completely to telemedicine, following the recommendation from Arizona Department of Health Services (AZDHS). Larry Villano, CEO of Resilient Health, noted that the eased restrictions allows them to provide novel services, "We've never had an opportunity to do group counseling over telehealth until now," he said, "And that's the kind of innovative programming that we're doing."

Navajo County: Gap Coverage and Good Economics[18]

Summit Healthcare Regional Medical Center, in Show Low, is a shining example of how telemedicine can improve patient care in communities where hospitals can't afford every type of specialist. The single nephrologist on staff was crucial to ensure that dialysis patients hospitalized for other conditions would still receive proper care. When that physician left, the alternative was for patients to travel by air to Phoenix or Flagstaff, a $40,000 helicopter bill. Some patients started deferring care, coming in only for dialysis. In response, Summit launched a telemedicine platform for remote monitoring of dialysis patients. Kristi Iannuci, Summit's Telehealth Specialist states, "That is just life changing for people." She also estimates that in just over a year, more than 400 patients have used the platform saving the hospital over $3 million. Iannuci notes that expanding telemedicine insurance coverage to other health specialties would save even more lives.[19]

La Paz County: Prenatal Telehealth[20]

In 2019, the legislature passed HB2747 providing $1 million over two years to fund prenatal telehealth services at rural hospitals. The budget summary itself stated, "Unfortunately there are areas across the state where expectant mothers do not have ready access to adequate health care, are forced to travel extensively…to larger cities or go without recommended check-ups. Without proper care, expecting mothers are more likely to face complications during pregnancy, morbidity or even mortality."

According to the Governor's Office, only 45% of pregnant women in La Paz have adequate access to prenatal care. Santa Cruz ranks next lowest with just over 60%. Most of the other heavily rural counties are not far behind. Marion Shontz, Director of the La Paz County Health Department states, that the new technology is welcome.

> "The population base in rural Arizona usually doesn't support a full time ob/gyn or hospital services for labor and delivery. If you are a resident of La Paz County, prenatal care has always been obtained in other [surrounding] counties… Unfortunately, this is the reality."

Federal Telehealth Regulations: What Changed

Regulatory Barriers are Well-known

A 2019 Price Waterhouse Cooper survey of health care system chief executive officers showed that 84% of care providers and 94% of payors (insurers) identified the major limiting factor for digital healthcare adoption as being data protection and privacy regulations. This includes the HIPAA Act of 1996 and its 2009 expansion under the Health Information Technology for Economic and Clinical Care Act (HITECH). Additional barriers cited included cost, lack of in-house data science expertise, lack of needed telehealth partners, and the lack of ability to scale the solution.[21] In addition to federal regulations, each state has its own set of laws and medical licensure board regulations.[22] [23]

Pre-Pandemic: Growing Bipartisan Support in Congress

In late 2019, broad bipartisan support in Congress led to proposed legislation to expand Medicare coverage for telehealth. The Senate introduced S.2741 Creating Opportunities Now for Necessary and Effective Care Technologies (CONNECT) for Health Act of 2019. Companion legislation introduced in the U.S. House was co-sponsored by Rep. Schweikert (R-AZ), the Co-Chair of the Congressional Telehealth Caucus. The legislation had wide stakeholder support from over 100 organizations including the American Medical Association (AMA) and the American Hospital Association (AHA). Patrice Harris, AMA President stated,

> "Increased access to telehealth is urgently needed to help meet the health needs of the swiftly changing demographics of our senior population. The CONNECT for Health Act's expansion of telehealth coverage in the Medicare program also will spur increased investment and innovation in delivery redesign to benefit all patients."[24]

The bill is currently referred to the Committee on Finance. If passed, the bill's provisions would:

- Allow the Centers for Medicare and Medicaid Services (CMS) to waive geographic restrictions for services provided in high-need, health professional shortage areas, for mental health and emergency services, and for services delivered by Federally Qualified Health Centers (FQHC), Rural Health Clinics (RHC) and the Indian Health Service
- Allow CMS to waive restrictions during national emergencies

The emergence of the COVID-19 pandemic in early 2020 accelerated some of these waivers, although only temporarily.

COVID-19 Driven Federal Changes:

In response to the COVID-19 public health emergency, Health and Human Services (HHS) as well as the passage of the 2020 Coronavirus Aid, Relief, and Economic Security (CARES) Act accelerated changes to regulatory impediments to telehealth. These are temporary waivers remaining in effect until the emergency ends or on earlier specified dates. A good discussion of the changes enacted can be found in a blog posting on the Arizona Telemedicine Council website.[25]

Overall, HHS summarizes the following key changes:[26]

- Rural Federally Qualified Health Centers (FQHC) and Rural Health Clinics (RHC) are permitted to provide telehealth services to patients at remote locations, including at home.

- Prescription of controlled substances by telemedicine is permitted, and qualifying practitioners are allowed to prescribe buprenorphine (for opioid addiction) based on a telephone evaluation.
- Providers are protected from facing sanctions for reducing or waiving cost-sharing obligations for telehealth services paid by federal or state programs, such as Medicare and Medicaid.
- New HIPAA flexibility allows health care providers to use non-compliant platforms without risk of penalties (see section below).

In addition, the CARES Act adds other provisions for telehealth: [27]

- Ensures that telehealth delivered by the rural FQHCs and RHCs will be reimbursed at comparable rates under a physician fee schedule
- Ensures Medicare beneficiaries can immediately qualify for telehealth services
- Permits hospice recertifications remotely and by nurse practitioners as well as physicians
- Reduces requirements for home dialysis in-person evaluations, and
- Provides $200 million to the Federal Communications Commission (FCC) to enable qualifying health care providers to implement telehealth.

Most Recent (July 2020) Waivers for Telemedicine[28]

The Centers for Medicare and Medicaid Services (CMS) implemented new blanket waivers on July 28, 2020, in some cases broadening existing waivers. All waivers will last until the end of the "emergency declaration." With respect to telehealth these include:

- Hospitals & Critical Access Hospitals: Waives restrictions making it easier for telemedicine services to be provided to patients by agreement with an off-site hospital. This allows increased access to specialty care.
- Medicare: Allows for the use of audio-only equipment for audio-only telephone evaluation and management services, behavioral health counseling and educational services. Unless otherwise specified, other telehealth services must use audio-visual equipment permitting two-way, real-time, interactive communication.
- Medicare: Expands the types of health care professionals that can provide and bill for distant site telehealth services. These now include physical therapists, occupational therapists, speech pathologists and others.

Allowed HIPAA Non-Compliant Platforms[29, 30]

Importantly, the Office of Civil Rights (OCR) at HHS is using its discretion and not imposing penalties for use of HIPAA non-compliant private communications. Nor will it impose penalties against health care providers who, in good faith, use these technologies to exchange patient-private information. The permitted private communications platforms and applications are those that provide some measure of security through end-to-end encryption and account privacy controls.

These platforms include Zoom, Skype, Apple Facetime, Facebook Messenger, Google Hangouts, and Whatsapp video chat. It also allows use of common texting applications like iMessage, Facebook

Messenger, Hangouts, and Whatsapp. There is currently no declared expiration date for this allowance, i.e. it is not tied to an end of the national emergency.

Post-Pandemic: Congressional Planning

In July, the U.S. House moved to enshrine changes made during the pandemic. Co-sponsored by Rep. Schweikert (R-AZ), Co-Chair of the Congressional Telehealth Caucus, the House introduced the bipartisan "Protecting Access to Post-COVID-19 Telehealth Act" (H.R.7663).[31, 32] Critically, it would amend the Social Security Act to allow the Secretary of HHS to change Medicare requirements with respect to telehealth. Note that without Congressional action, this cannot be done. The bill is currently in referral to two House committees, where it awaits attention.

Specifically, the proposed Act would:

- Eliminate the geographic restrictions, allowing coverage in non-rural areas
- Eliminate originating site restrictions and establish in-home as an eligible site
- Prevent a sudden loss of services to Medicare beneficiaries by authorizing CMS to continue telehealth reimbursement 90 days beyond the end of this public health emergency
- Make the disaster waiver authority permanent, enabling HHS to expand telehealth for Medicare in all future emergencies and disasters
- Require a study on the use of telehealth during the COVID-19 pandemic, including costs, rates of uptake, measurable health outcomes and racial and geographic disparities.

Lobbying the President

It is important to remember that telehealth benefits urban populations as well as rural. In late August, the American Hospital Association sent a letter to President Trump calling on him to make permanent the flexibilities HHS and CMS put in place during the pandemic. The letter reads, in part, "Patients have been empowered by this flexibility to seek and receive virtual care at all of the places they can currently access in-person care, including hospital outpatient departments. They have found that the convenience, quality and ease of receiving care in this manner helps accommodate their individual needs and lifestyles, creating a more patient-centered care experience."[33]

How Has Arizona Kept Up

Executive Orders and Legislation

Executive Orders

During the pandemic, Governor Ducey issued two Executive Orders with respect to telehealth. The first required insurers to cover telehealth in workers compensation plans. The second expanded the use and insurance coverage of telehealth services (See Appendix 1 for details).

Selected Recent Legislation

Importantly, in 2016, Arizona removed its geographic requirement for telehealth services. Senate bill SB1363 removed the rural-only requirement mandating insurers cover urban areas as well. However, the bill allowed insurers to limit coverage to in-network providers and included only eight categories of telemedicine. Further, the law contained no requirement for insurer payment parity.[34]

Introduced in the 2020 legislative session but stalled due to the legislative adjournment, HB2536 expanded the list of health care specialists allowed to provide telemedicine services. The bill also reintroduced and accelerated the new definition of telemedicine, which was changed in 2019 (SB1089) but the enactment was intentionally delayed until Jan. 2021. The definition now includes "asynchronous store and forward technologies" and remote monitoring technologies, both of which are necessary for today's medical care, especially during the current pandemic. Store and forward technologies allow for the electronic transmission of digital images (like X-rays or MRIs), videos, and documents.[35] Remote monitoring technologies are generally used for chronic illnesses and include devices like blood pressure monitors, weight scales, etc. Additionally, SB1089 added a clinical specialty to the short list of telehealth services covered (See Appendix 1 for details).

One telehealth service specifically disallowed by statute is the administration of medicated abortion. This practice is considered unprofessional conduct, and practitioners are subject to license suspension.[36, 37] The result is that patients in distant rural areas must physically travel to Phoenix or Tucson for care.

AHCCCS Rules and Waivers: Expirations October 2020

In late 2019, the Arizona Health Care Cost Containment System (AHCCCS) modified its telehealth regulations, as listed below. Importantly, AHCCCS is following confidentiality guidelines from other agencies, which appear to allow the use of HIPAA-non-compliant platforms for its participants.[38]

- Removal of geographic restrictions: telehealth now covered for rural and urban populations
- Lifting the originating site restrictions enabling patients to receive at-home delivery (for some codes)
- Allowing the use of distant health care providers, with in-state licensing requirements
- Updating the telemedicine definition: healthcare services delivered via asynchronous (store and forward), remote patient monitoring, teledentistry, and telemedicine (interactive audio and video)
- Broadening asynchronous coverage to include dermatology, radiology, ophthalmology, pathology, neurobiology, cardiology, behavioral health, infectious diseases, allergy/immunology
- Permitting telemonitoring for all specialties, not just cardiology
- Continuing to allow telephonic services
- Creating a telephonic code set, in recognition that some patients and providers have limited technological capacity
- Eliminating high level confidentiality requirements and deferring to "statute and other authorities" for such requirements

AHCCCS has kept largely in-step with the federal changes by obtaining waivers from CMS for "flexibilities" during the COVID-19 crisis. Of the 12 waivers, three are directly applicable to telehealth:

- Permit out of state providers to offer care to Arizona Medicaid and CHIP enrollees
- Waive requirements for member written consents and signatures on plans of care and allows verbal consents to be obtained telephonically
- Waive face to face requirements for Home Health Services.

As of August 20, 2020, the anticipated expiration date of the public health emergency (PHE) is Oct 22, 2020; however, AHCCCS waivers will continue if the PHE is renewed past this date.[39] In late July, after discussion with multiple stakeholders, AHCCC applied for continuation of some of these flexibilities beyond the termination of the COVID-19 public health emergency.[40] Importantly for

telehealth, this includes extending the use of telemedicine code expansion, evaluating the telephonic code set for possible permanent adoption, and allowing verbal consent in lieu of written consent for all care and treatment documentation.

COVID-19 Telehealth Funding: Six Arizona Grants

As part of the CARES Act, Congress appropriated $200 million to the FCC for immediate rollout of a COVID-19 Telehealth Program. The grants enabled healthcare organizations to rapidly deploy telecommunications services and devices needed to provide critical connected care to patients at remote locations. Six awards totaling just over $2.16 million were made to organizations in Flagstaff, Tucson, Window Rock, Colorado City, Page and Sahuarita. A summary of these awards can be found by searching the FCC site.[41]

Telehealth Information Resources

The Southwest TRC

The National Consortium of Telehealth Resource Centers (NCTRC) is composed of 12 regional and two national resource centers, all committed to providing telehealth programs to rural and disadvantaged communities.[42] Funded by HHS, the TRCs provide technical assistance, education and other telehealth resources. The Southwest Telehealth Resource Center (Southwest TRC) covers five southwestern states including Arizona.[43] The website provides links to telehealth service providers, webinars, on-line education, policy updates, and links to other telehealth resources.

The Arizona Telemedicine Council

The Arizona Telemedicine Council (ATC), administered by the University of Arizona Health Sciences, was created in 1996 with the goals of increasing access to specialty health care for rural and underserved communities, and to develop cost-effective telemedicine services.[44] It awarded grants for short-term projects meant to augment infrastructure projects funded by the state. In the early days, the Council helped create a telemedicine network based on T1 telecom carriers.[45] In recent years, the council has focused on small grants for purchasing telemedicine-enabling equipment such as tablets or smart phones. These grants appear targeted mostly towards University of Arizona recipients.[46]

The Council formation was spearheaded by former Senator Robert Burns, who now represents the Arizona Corporation Commission (ACC) on the Council and is the current ATC Chair. Council membership includes governmental, agency, educational, and public members. The current listed governmental members include Democrats: Sen. Bradley (D-LD6), Rep. Kelli Butler (D-LD28) and Rep. Randall Friese (D-LD9)

The Arizona Corporation Commission (ACC), established by the Arizona Constitution, is self-described as “Arizona’s co-equal fourth branch of government”. It functions in a legislative-like capacity, adopting rules and regulations for utilities and also acting in judicial capacity to resolve disputes. Unlike other states’ commissions, the ACC has proscribed roles well beyond traditional public utility regulations.[47, 48] These include establishing rules, regulations and orders for how corporations do business within the state, as well as setting rates and charges.[49] While the ACC regulates local telephone service, it has no jurisdiction over internet service or internet service providers.

Arizona Private Insurers: Coverage and Cost-Sharing, for How Long?

There are two central concepts for commercial telehealth insurance law: telehealth coverage and telehealth payment parity.[50] Arizona law and Executive Order 2020-29 for Worker's Compensation plans currently mandate that insurance cover telemedicine services to the same extent they would if the services were delivered in-person. Payment parity requires the health plan to reimburse for telehealth services at equivalent reimbursement rates as when the same service is delivered in-person. Under Executive Order 2020-15, payment parity is mandated.

The top health insurance companies in Arizona in 2018 listed by the Kaiser Family Foundation are: Blue Cross Blue Shield of Arizona, United Healthcare Group, and the CVS Group (which acquired Aetna). Together they make up 86% of large group insurers. Their respective market share is shown in the table below.[51] A public poll of the most popular insurers added Cigna to these top three.[52]

All four cover some telemedicine services directly or via telehealth partner companies; they differentiate coverage for COVID or non-COVID-related care, and for in-network versus out-of-network providers. Most are waiving cost-sharing, with some expiring on September 30, 2020, and others extending until the end of the public health emergency. See Appendix 2 for details.

Top Three Large Group Insurers (groups with 101 or more employees)	**Enrolled (Total Market: 462,236)**	**Market share (%)**
Blue Cross Blue Shield of AZ	230,398	50 %
United Healthcare Group	119,978	26 %
CVS Group (Aetna)	44,473	10 %
https://www.kff.org/other/state-indicator/market-share-and-enrollment-of-largest-three-insurers-large-group-market/?sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D		

Additional Barriers: Socioeconomics and the Digital Divide

The Digital Divide

Along with the need for permanent easing of regulatory barriers, there are significant socioeconomic barriers to a patient's access and use of telehealth.[53] These include:

- Physical infrastructure: housing insecurity, lack of regional broadband internet capability, limited access to sources for free public internet
- Social: cultural perceptions about the use of internet-enabled devices, mistrust of technology or of the medical community
- Education: general literacy, digital literacy, or the ability to stay current with digital technology
- Economics: affordability of digital devices, device compatibility with telehealth programs
- Health Care Access: affordability of programs offering telehealth, health conditions that impede the ability to use digital technology

English language proficiency can be a significant barrier on its own and leads to health disparities in non-English speaking communities. Using data from the National Health Interview Survey 2011-2015, a study of more than 156,000 people examined telemedicine use among U.S. natives,

naturalized citizens, and non-citizens. The study found, not unexpectedly, that immigrants with fewer English language skills were less likely to use electronic health resources.[54]

Telehealth Explosion will Deflate without Broadband Expansion

The 2018 Arizona Broadband Strategic Plan acknowledged that telehealth is transforming health care delivery in Arizona and "depends on reliable high-speed broadband communications for secure high-definition medical-grade video conferencing and rapid transport of medical imaging, as well as many other types of patient data….Improving the reach, reliability and capacity of broadband networks is critically important to the ability to deliver timely, high-quality healthcare to Arizona's population".[55] While broadband *accessibility* is not as critical in urban areas, bandwidth *capacity* is, as demand is growing exponentially—as painfully demonstrated during the pandemic.

The lack of broadband internet access in rural Arizona remains a substantial problem, one which will impede the success of telemedicine in those communities where they need it the most. A 2016 FCC study found that 63% of Arizona's population without broadband internet access live in rural areas, and fully 95% of the tribal population has no broadband access at all. Expanding broadband into rural communities is expensive and does not easily attract private investment.[56]

An excellent webinar moderated by Stanford University's Felicity Barringer Taubman, Bill Lane Center for the American West, which discusses challenges with building out broadband while using many helpful analogies is *Rural Broadband in the West: Missed Connections.*[57] One of the fundamental challenges is that existing maps of broadband coverage are both inaccurate and misleading. To paraphrase Geoffrey Blackwell, Chief Strategy Officer and General Counsel at AMERIND, a Tribally owned insurance provider, and the former Chief of the FCC Office of Native Affairs and Policy,

> 'The maps are almost aspirational rather than accurate….The maps need to show deployment as well as issues why broadband isn't available…. Maybe we have the superhighway, but we have no state or county roads; maybe even just dirt roads.'

For an in-depth discussion of broadband technology, issues, and the status of Arizona's plans to expand rural broadband coverage, see Local Majority paper, "*Broadband and the Digital Divide.*"[58]

U.S. Congressional Legislation: Encouraging Private Investment

A longtime advocate for closing the rural digital divide, U.S. Senator Kyrsten Sinema, (D-AZ), co-sponsored the ACCESS Rural America Act, bipartisan legislation that streamlines the broadband application process, expanding access to broadband services for rural and tribal communities.[59]

Select Arizona State Legislation

Introduced in 2020 but stalled due to the early legislature adjournment, SB1223 (Sen. Sylvia Allen, R-LD6) would have appropriated $10 million to the Arizona commerce authority to provide rural broadband grants for FY2020-21.[60]

ReConnect Program

The CARES Act allocated $100 million to the U.S. Department of Agriculture's (USDA) ReConnect Program, for grants and loans to support new broadband infrastructure. Applications were received from 41 states and awards have ranged from $1.6 to $71 million. In January 2020, Arizona received $1.6 million for a high-speed broadband infrastructure project to improve connectivity to "1,492 rural households, 27 pre-subscribed businesses, six educational facilities, four pre-subscribed farms, three critical community facilities and a health care center."[61] Pending applications are not made public, so

it is unknown if other Arizona applications have been submitted that could benefit health care facilities—something worth monitoring and pursuing in the future.

Distance Learning and Telemedicine Program
The CARES Act also made available $72 million to USDA's "Distance Learning and Telemedicine Grant Program," specifically aimed at rural communities. A second window for applications opened just recently. These grants require a minimum of 15% match.

The Looming Telehealth Cliff: Action Required to Avoid It

At the federal level, Congress, HHS, and CMS all must act to codify temporarily waived regulations.[62] Arizona must follow suit and ensure similar laws pass, as well as cover existing gaps. Lastly, private health insurers must also ensure coverage and payment parity[63] for telehealth for all their plan members.

Federal Legislative Action Needed

- Congress must empower HHS to remove two critical telehealth restrictions mandated by the Social Security Act: The geographic requirement that Medicare beneficiaries must reside in rural areas, i.e. outside a Metropolitan Statistical Area or in a Health Professional Shortage Area located in a rural census tract, and the originating site requirement that mandates that a patient must travel to a local medical facility to receive virtual care.
- CMS must codify payment parity, reimbursing telehealth at equal rates as in-person visits
- CMS must cover remote patient monitoring services for patients with chronic illnesses (e.g., currently virtual home care is allowed but not reimbursed)
- CMS must continue coverage of audio-only telehealth services

Patient Privacy and HIPAA-Compliance:
One of the biggest unresolved challenges ahead is how to continue telemedicine delivery that has become accustomed to using HIPAA non-compliant private communications platforms such as Zoom, Skype, and Facetime. It is unlikely that these platforms will be permitted by HHS for the long-term given they do not incorporate full patient data privacy controls like HIPAA-compliant software. It is, therefore, essential that HIPAA be updated to accommodate new and emerging technology platforms.

Arizona Legislative Action Needed
Legislators must take action to codify the temporary waivers and coverage enabled by Gov. Ducey's Executive Orders and cover existing legislative gaps. These include:

- Codifying telehealth coverage for worker's compensation and self-insurance plans
- Codifying the requirement for payment parity for telehealth by insurers
- Amending the definition of telemedicine to include audio-only and video-only access
- Ensuring the full list of medical specialties is covered for telehealth
- Taking the lead in efforts to evolve acceptable HIPAA compliance in private communications

Enabling Legislation Needed - Arizona's Digital Divide

As mentioned, regulations are not the only barrier to telehealth. Arizona must also find ways to help its disadvantaged citizens access and use telehealth tools and resources. Programs or workshops are urgently needed to help educate those needing help using digital technology. Lastly, legislators must fund broadband infrastructure projects which will enable all Arizona's rural populations to have access to telehealth.

Conclusion

The benefits of pervasive, accessible telehealth services have become apparent as its adoption has skyrocketed during the COVID-19 pandemic. Health care providers have implemented programs rapidly and effectively to accommodate virtual care necessities. Prevailing practice shows that patients and medical care providers are directly benefiting from telemedicine services, often resulting in substantial time and cost savings as a result. With many key regulations temporarily waived both at the national and state level, *steps must be taken now* to enable their extension beyond the end of the pandemic public health emergency.

Legislators must not allow Arizona to be left behind once the public health emergency is declared over by ensuring that expanded telehealth provisions are codified by state law. Substantial challenges will still remain such as adding more clinical specialties covered by telemedicine, providing equal access to telemedicine for disadvantaged communities, and expanding broadband infrastructure in the state. Change has been thrust upon the medical community and it has responded admirably. It is up to our state leadership to make sure that it endures as a tremendous benefit to both our citizens and health care professionals.

Appendix 1: Arizona Executive Orders and Legislation for Telehealth

Bills	Issue or Title	Lead Sponsor	Commentary
Executive Order 2020-29 Driven by COVID-19	**Increased Telemedicine Access for Workers' Compensation** Continuing for the duration of the public health emergency declared 3/11/2020, • All workers' compensation insurance plans…self-insurance plans…and the Special Fund are required to provide coverage for all health care services provided through telemedicine if they would be covered by in-person visit between injured worker and health care provider • Requirements may not be more restrictive or less favorable than required for in-person visit services • Must allow all electronic means of delivering telehealth, including telephone & video calls • Shall allow patient's home as an approved location to receive telemedicine services • Telehealth services may be provided by any Arizona licensed health care provider type • Except in cases of suspected fraud, no Arizona regulatory board shall require an authorized medical professional to conduct an in-person exam prior to issuing a prescription	Gov. Ducey	April 1, 2020
Executive Order 2020-15 Driven by COVID-19	**Expansion of Telemedicine** Continuing for the duration of the public health emergency declared 3/11/2020, • All health insurance plans regulated by Arizona Dept. Insurance are required to cover all healthcare services provided via telemedicine if that service would be covered if provided via an in-person visit • Requirements may not be more restrictive or less favorable than required for in-person visit services • Insurers must reimburse health care providers at same level as in-person • Insurers must allow all electronic means of delivering telehealth including telephone & video • Insurers shall allow patient's home as an approved location to receive telemedicine services • Telehealth services may be provided by any Arizona licensed health care provider type • AHCCS requires all Medicaid plans covered benefits to be accessible via telemedicine. Medicaid plans may not discount rates compared to in-person rates • No Arizona regulatory board shall require an	Gov. Ducey	Mar 25, 2020 Note this Order accelerates the coverage date of SB1089 below SB1089 would not have taken effect until Jan, 2021

	authorized medical professional to conduct an in-person exam prior to issuing a prescription		
HB2536 2020 Driven by COVID-19	**Telemedicine, Providers** Had unanimous support in both House & Senate. Existing list of providers includes licensed podiatrists, allopaths, naturopaths, homeopaths, osteopaths, nurses, pharmacists, psychologists, physician assistants, radiologic technologist and behavioral health professionals • Expands the definition to include chiropractors, physical therapists, occupational therapists, athletic trainers, hearing aid dispensers, audiologists, and speech-language pathologists. • Modifies definition of telemedicine to mean the interactive use of audio, video, or other electronic media, *including asynchronous store-and-forward technologies and remote patient monitoring technologies*, for…diagnosis, consultation, or treatment. • Specifies that telemedicine *does not* include the sole use of an audio-only telephone, a video-only system, a fax machine, instant messages, or an email.	Rep. Shah (D-LD24	Legislature adjourned Bill accelerates SB1089 enactment Note: In July, CMS allowed some HIPAA non-compliant communication
SB1089 2019	**Telehealth Insurance** Unanimously passed by House & Senate • Requires insurers to cover any health care services provided through telemedicine if the same services would be covered when provided in-person. • Prior limitations and exclusions were removed. • Modifies the requirements for telemedicine services • Expands the definition of telemedicine to include, asynchronous store-and-forward technologies and remote patient monitoring technologies • Telemedicine definition continues to exclude audio-only telephone, video-only, facsimile, email, or instant messages • Specialties covered: trauma, burn, cardiology, infectious diseases, mental health disorders, neurologic diseases including strokes, dermatology, pulmonology, urology, pain medicine, and substance abuse.	Sen. Carter (R-LD16)	Delayed effective date of Jan. 1, 2021 Superseded by Governor's Exec Order 2020-15 above
2019 HB2747 SB1548	**Appropriations—Telemedicine-related**: • $1 million from General Fund to the Dept. Health Services for distribution to rural hospitals in health professional shortage areas (HPSA). • For Prenatal Care Telemedicine Program for pregnant women. To be administered via Request for	Bowers (R-LD25)	Passed May 31, 2019

	Proposals (RFP); grants to be awarded to geographic areas with greatest need		
SB 1363 (2016)	**Insurance Coverage, Telemedicine** Unanimously passed by both House and Senate • Private insurance must now cover telemedicine services anywhere in the state, *not just in rural areas.* • Services include those that would be covered if delivered in-person • Removes the definition of "rural region" as relates to health care delivered by telemedicine • Adds Pulmonology as covered health care service	Sen. Griffin (R-LD14)	Delayed effective date: Jan. 1, 2018 Removed the restriction for coverage only in rural areas
SB1353 (2013)	**Health Insurance, Telemedicine** Unanimously passed in both House and Senate • Requires insurers to cover services provided through telemedicine if those services would be covered in-person • Coverage limited to telemedicine in rural regions and certain conditions • "Rural region" is defined as (1) an area located in a county with population less than 900,000 people, or (2) a city or town located in a county with population 900,000 or more and whose nearest boundary is more than 30 miles from a city with a population of 500,000 or more people • Coverage may be limited to health care providers in a telemedicine network approved by the insurer • Health service costs may not exceed those for the same services when provided via in-person • Coverage does not apply to limited benefit plans • Covers trauma, burn, cardiology, infectious diseases, mental health disorders, neurologic diseases including strokes, and dermatology	Sen. Griffin (R-LD14)	Delayed Effective date: Jan. 1, 2015 Requires private insurers to cover telemedicine for the first time Limited to rural regions (this mimics the federal HHS regulation)

Appendix 2: Top Arizona Insurance Companies, Telehealth & Expiration

Insurance Company	Expanded Telemedicine Coverage during Pandemic	Plans Included	Expiration of expanded Telemedicine coverage
Blue Cross Blue Shield of Arizona	• Eliminated cost-sharing for telemedicine, telehealth and teledentistry • Expanded access to telehealth • Expand nurse/provider hotlines	Individual, Group, Medicare. Employer self-funded programs may opt-out	Not stated
United Healthcare of Arizona	• For urgent needs, care is delivered via a Telehealth partner: Teledoc, American Well, Doctors on Demand • For non-urgent needs, delivered via United Healthcare Virtual Visit	Individual, Group Market, Medicare Advantage, and Medicaid	For non-COVID-19 related telehealth, in-network cost sharing extends through Sept. 30, 2020 For COVID-related cost-sharing (in-/out-of-network), extends through end of national emergency.
CVS Group (Aetna Health Inc)	• As of Jan. 2020, all telemedicine real-time, two-way visits covered by Aetna • Waived cost-share for mental health counseling • Delivered via telehealth partner, Teledoc	Commercial and Medicare Advantage plans Employer self-insured may opt-out of waiver	Cost-sharing waiver for in-network, telemedicine visits for any diagnosis expired June 4, 2020 Waiver extended through Sept 30, 2020 only for mental health counseling. Student plans extension includes medical care.
Cigna Healthcare of Arizona	• Added staff to MDLIVE, Cigna's telehealth partner • June 2020: waived all in-network cost-sharing for telehealth visits for primary, specialty and behavioral care • Eliminated cost-sharing for COVID-19 related care. Virtual care defined as "treatments… covered under Medicare or applicable state regulations"	Individual, Family, Group, Medicare Advantage; Medicaid and Exchange Plans Employer self-funded programs may opt-out	Extended for Individual, Family or Exchange plans through the end of applicable federal and state public health emergencies Expiration for Medicare Advantage is Dec 31, 2020.

BCBSAZ: https://newscenter.azblue.com/blue-cross-blue-shield-of-arizona-expands-support-for-coronavirus-services-and-care-waives-telehealth-cost-share-for-members/
UHC: https://www.uhc.com/health-and-wellness/health-topics/covid-19/telehealth-options
CVS Group/ Aetna: https://www.aetna.com/individuals-families/member-rights-resources/need-to-know-coronavirus/telemedicine.html
Cigna: https://www.cigna.com/newsroom/news-releases/2020/cigna-waives-customer-cost-sharing-for-covid-19-treatment-and-deploys-clinical-teams-to-increase-virtual-care-capacity

[1] https://www.nejm.org/doi/full/10.1056/NEJMp2005835
[2]https://www.ruralhealthweb.org/NRHA/media/Emerge_NRHA/Advocacy/Policy%20documents/05-11-18-NRHA-Policy-Telehealth.pdf
[3] https://www.mckinsey.com/industries/healthcare-systems-and-services/our-insights/telehealth-a-quarter-trillion-dollar-post-covid-19-reality#
[4] https://www.uhc.com/content/dam/uhcdotcom/en/B2B-Newsletters/b2b-pdf/COVID-19-white-paper.pdf
[5] https://www.sciencedaily.com/releases/2020/04/200430150220.htm
[6] https://www.uhc.com/content/dam/uhcdotcom/en/B2B-Newsletters/b2b-pdf/COVID-19-white-paper.pdf
[7] https://finance.yahoo.com/news/teladoc-health-reports-first-quarter-200510457.html
[8] https://www.nejm.org/doi/full/10.1056/NEJMp2005835
[9] https://telemedicine.arizona.edu/blog/avoiding-telehealth-cliff-making-telehealth-expansion-permanent
[10]http://www.digitaldividecouncil.com/what-is-the-digital-divide/
[11] https://www.ruralhealthinfo.org/topics/telehealth
[12] https://www.azleg.gov/legtext/54leg/2R/summary/S.2536HHS.pdf
[13] https://www.diagnosticsworldnews.com/news/2020/06/30/zoom-and-skype-rule-telemedicine-world-of-physicians
[14] https://communityimpact.com/phoenix/chandler/health-care/2020/06/25/telemedicine-here-to-stay-post-covid-19-according-to-local-health-professionals/
[15] https://newscenter.azblue.com/covid-19-offers-chance-to-pull-in-the-same-direction/
[16] https://www.hcinnovationgroup.com/covid-19-and-telehealth/article/21146447/phoenix-childrens-hospitals-success-story-a-rapid-transition-to-telehealth-with-high-satisfaction-all-around
[17] https://www.abc15.com/news/state/how-arizonas-medical-community-is-using-telehealth-during-covid-19-and-plan-to-use-it-after
[18] https://mhealthintelligence.com/news/arizona-lawmakers-look-to-expand-telemedicine-definition-coverage
[19] https://www.abc15.com/news/state/arizona-bill-hopes-to-improve-insurance-coverage-of-telemedicine
[20]https://www.parkerpioneer.net/news/article_72db188c-44ec-11e9-8198-93aed48e3fb6.htm
[21] https://www.pwc.com/us/en/industries/health-industries/assets/pwc-us-health-top-health-issues.pdf
[22] https://edhub.ama-assn.org/steps-forward/module/2702689
[23] https://www.fsmb.org/siteassets/advocacy/key-issues/telemedicine_policies_by_state.pdf
[24] https://www.fiercehealthcare.com/tech/lawmakers-introduce-bipartisan-bicameral-legislation-to-expand-medicare-coverage-for
[25] https://telemedicine.arizona.edu/blog/pandemic-silver-lining-federal-telehealth-regulations-relaxed-least-now
[26] https://www.telehealth.hhs.gov/providers/policy-changes-during-the-covid-19-public-health-emergency/#providing-telehealth-services-for-medicare-patients
[27] https://www.aha.org/system/files/media/file/2020/03/cares-act-provisions-to-help-rural-hospitals.pdf
[28] https://www.cms.gov/files/document/summary-covid-19-emergency-declaration-waivers.pdf
[29] https://www.hhs.gov/about/news/2020/04/02/ocr-announces-notification-of-enforcement-discretion.html
[30] https://www.hhs.gov/sites/default/files/telehealth-faqs-508.pdf
[31] https://www.healthcareitnews.com/news/bipartisan-house-bill-would-enshrine-telehealth-rule-changes-enable-wider-use
[32] https://www.congress.gov/bill/116th-congress/house-bill/7663?q=%7B%22search%22%3A%5B%22telehealth%22%5D%7D&s=1&r=12
[33] https://www.medicaleconomics.com/view/aha-calls-for-telehealth-flexibilities-to-be-made-permanent
[34] https://www.foley.com/en/insights/publications/2016/06/why-arizonas-new-telemedicine-law-sends-an-importa
[35] https://www.cchpca.org/about/about-telehealth/store-and-forward-asynchronous
[36] https://www.azleg.gov/viewdocument/?docName=https%3A//www.azleg.gov/ars/36/03604.htm
[37] https://www.abortionfundofaz.org/abortion-in-arizona
[38] https://azahcccs.gov/ahcccs/downloads/AHCCCS_TelehealthWebinarApril092020.pdf]
[39] https://azahcccs.gov/Resources/Downloads/1115Waiver/COVID19StatusofFlexibilities.pdf
[40]https://www.azahcccs.gov/Resources/Downloads/1115Waiver/200721_ContinuationOfFlexibilitiesDocument.pdf
[41] https://www.fcc.gov/covid-19-telehealth-program
[42] https://www.telehealthresourcecenter.org/about-us/
[43] https://southwesttrc.org/
[44] https://telemedicine.arizona.edu/
[45] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC61325/
[46] https://telemedicine.arizona.edu/content/innovation-awards-program
[47] https://www.azcc.gov/divisions

[48] https://azcc.gov/news/2020/05/27/arizona-corporation-commissioner-sandra-kennedy-calls-on-governor-ducey-to-work-across-the-aisle-on-utility-assistance-package#:~:text=The%20Arizona%20Corporation%20Commission%20was,equal%2C%20fourth%20branch%20of%20government.
[49] https://www.azleg.gov/viewDocument/?docName=http://www.azleg.gov/const/15/3.htm
[50] https://www.foley.com/-/media/files/insights/health-care-law-today/19mc21487-50state-survey-of-telehealth-commercial.pdf
[51] https://www.kff.org/other/state-indicator/market-share-and-enrollment-of-largest-three-insurers-large-group-market/?sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D
[52] https://azbigmedia.com/business/consumer-news-news/ranking-arizona-top-10-insurance-companies-for-2019/
[53] https://academic.oup.com/jamia/article/27/7/1147/5826352
[54] https://pubmed.ncbi.nlm.nih.gov/30223716/
[55] https://azlibrary.gov/sites/default/files/erate_2018_az_broadbandstrategicplan_final.PDF (page19)
[56] https://www.williamsnews.com/news/2018/oct/03/internet-range-rural-residents-suffer-lack-broadba/
[57] https://west.stanford.edu/research/works/rural-broadband-west-missed-connections
[58] https://www.localmajority.org/wp-content/uploads/2020/07/AZ.BroadbandDigitalDivide.20200713.rbr_.pdf
[59] https://www.sinema.senate.gov/key-committee-passes-sinema-backed-bill-expanding-access-broadband-arizonans
[60] https://apps.azleg.gov/BillStatus/BillOverview/74028?SessionId=122
[61] https://www.usda.gov/media/press-releases/2020/01/29/usda-invests-16-million-broadband-rural-arizona-communities
[62] https://www.healthcaredive.com/news/telehealth-6-months-coronavirus/581447/
[63] https://www.foley.com/en/insights/publications/2019/12/telehealth-state-survey-commercial-insurance-laws