

MEDICAL BOARD STAFF REPORT

DATE REPORT ISSUED: July 8, 2014
ATTENTION: Members, Medical Board of California
SUBJECT: State Licensure Requirement for Telehealth
STAFF CONTACT: Kimberly Kirchmeyer, Executive Director

REQUESTED ACTION:

After review and consideration of the information, make a motion to endorse a Medical Board of California (Board) policy position that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and, therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located.

BACKGROUND:

In the past year, federal legislation has been introduced that, if enacted, would allow physicians in another state to practice via telehealth without requiring additional state licensure where the patient is located. For example, H.R. 3077, *The TELE-MED Act of 2013*, if enacted, would allow a Medicare provider licensed in any state to treat any Medicare beneficiary in another state via telemedicine, without being licensed in the state where the patient is located. The Board has been notified that other similar bills are in the drafting stages, as well.

California law currently requires physicians who treat patients in California, whether through face-to-face office visits or via the provision of telehealth services, to be licensed in California, enabling the Board to verify, according to California standards, the credentials of the licensees, and, should there be a problem, to investigate and enforce discipline on the physician's license. Any federal legislation that changes this requirement would undermine the Board's ability to protect health care consumers, as the Board would have no authority over, or ability to discipline, providers who are treating patients in California via telehealth and are licensed in another state. The Board would not be able to investigate and take action on any allegations of inappropriate care or conduct for these physicians.

In addition, allowing individuals who are licensed in another state to treat California patients would be confusing to patients receiving care via telehealth in California. The patient would have no way of knowing what state the physician is licensed in and would not know where to check the physician's license and disciplinary history. Additionally, the patient would not know what entity to file a complaint with regarding the physician's care.

In order to assist Board staff with replying to these federal bills as they arise, the Board should have a policy position stating that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and, therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. This would allow staff to reply to any federal legislation that is introduced and to provide the Board's position on this very serious issue.