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Telepharmacy Rules and Statutes: A 50-State Survey

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Purpose and Introduction

The purpose of this policy brief is to identify rules and laws enacted by states authorizing the use of community telepharmacy initiatives within their respective jurisdictions. Though telepharmacy exists in several forms, telepharmacy in this brief is defined as the delivery of pharmaceutical care to outpatients at a distance through the use of telecommunication and other advanced technologies. Pharmaceutical care includes, but is not limited to, drug review and monitoring, dispensing of medications, medication therapy management, and patient counseling.[1] A significant advantage of telepharmacy is the ability to provide pharmacist access to patients in remote areas where a pharmacist is not physically available. Therefore, the implications of telepharmacy on increasing access to care are significant, particularly to patients in underserved rural communities, though it is important to note that underserved populations do not exist exclusively in rural settings.

Key Findings

- The use of telepharmacy is authorized, in varying capacities, in 23 states (46 percent).
- Pilot program development that could apply to telepharmacy initiatives is authorized by six states (12 percent).
- Waivers to administrative or legislative pharmacy practice requirements that could allow for telepharmacy initiatives are permitted in five states (10 percent).
- Nearly one-third of the states (16, or 32 percent) do not authorize the use of telepharmacy, nor do they currently have the ability to pursue telepharmacy initiatives via pilot programs or waivers.

Background

The RUPRI Center has long documented the decline in the number of retail pharmacies in rural areas, and the attendant loss of important clinical services provided by pharmacies.[2] Telepharmacy is increasingly seen as a valuable tool to provide these important community clinical services. In 2001, North Dakota became the first state to enact regulations allowing the use of telepharmacy.[3] By 2010, Montana, South Dakota, Texas, and Idaho had also enacted laws and regulations specifically authorizing the use of telepharmacy, while Utah, Washington, Arkansas, Minnesota, and Oklahoma permitted the use of telepharmacy on a limited basis (such as through board of pharmacy approval or pilot programs).[4] Little research is available to evaluate the progression of telepharmacy initiatives throughout the states. As rural pharmacies continue to struggle to remain financially viable, local access to pharmaceutical services may be a function of availability of telepharmacy. This brief provides a summary of the current landscape of state statutes and regulations, including particular initiatives since 2010.

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Methods

The most recent versions of administrative rules and legislative statutes governing the practice of pharmacy as of August 31, 2016, were analyzed for all 50 states. Rules and statutes specifically pertaining to pharmacy were identified by online searches via each state's board of pharmacy portal. Certain reoccurring themes were identified during the analysis of rules and statutes; these themes served as comparative measures of legislation from state to state. While the definition of telepharmacy varied from state to state, this brief focuses on rules and statutes where the state and/or board of pharmacy specifically authorized dispensing medication to patients via technological means, explicitly not requiring direct contact with a pharmacist. Direct contact refers to the physical presence of a licensed pharmacist at the location where medication is to be dispensed to the patient. For this study, a state qualified as permitting telepharmacy only if it authorizes the operation of telepharmacies for drug delivery to the retail (outpatient) market. States specifically limiting telepharmacy use to hospital inpatients, for example, were not included in this study. However, states authorizing telepharmacy use both for hospital inpatients and for patients in the community were included in this study.

Findings

Table 1 identifies the degree to which states permit the use of telepharmacy. Twenty-three states specifically authorize (through laws or regulations) the operation of telepharmacies to serve the retail (outpatient) market. These states are listed without consideration for the broad range of criteria generally regulating telepharmacies from state to state. Other states have been classified as possessing pilot programs (six states) or waivers (five states) that would enable telepharmacy initiatives. These states have practice of pharmacy statutes or administrative codes that contain provisions allowing for novel or technological innovation, one of which could potentially include telepharmacy programs. The remaining 16 states have been categorized as lacking any rules or legislation authorizing telepharmacy use because they are completely silent on telepharmacy use and either (1) lack the capacity to implement pilot programs or waivers for novel or technological innovation or (2) contain provisions (such as physical supervision requirements) within their practice of pharmacy statutes or administrative codes that currently prohibit the use of telepharmacy.

Table 1. State Telepharmacy Legislation

Telepharmacy Permitted in Some Capacity	Alaska, Colorado, Hawaii,[a] Idaho, Illinois, Indiana,[b] Iowa, Louisiana, Minnesota,[c] Montana, Nebraska,[d] Nevada, New Mexico, North Dakota, Oregon, South Dakota, Tennessee,[e] Texas, Utah, Vermont, West Virginia, Wisconsin, Wyoming
Pilot Programs that would Enable Telepharmacy Initiatives	Connecticut,[f] Kansas, Michigan, New Jersey, Virginia, Washington
Waivers that would Enable Telepharmacy Initiatives	Arizona, California, Maine, Massachusetts, North Carolina
No Rules or Legislation Authorizing Telepharmacy Use	Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Maryland, Mississippi, Missouri, New Hampshire, New York,[g] Ohio, Oklahoma, Pennsylvania, South Carolina, Rhode Island

[a] Hawaii: The statute authorizing new remote dispensing facilities was officially repealed January 2, 2016, although certain telepharmacies have been grandfathered into existence.

[b] Indiana requires board approval for a permit to operate a mobile or remote location. Pharmacy practice in a mobile or remote location can include the practice of telepharmacy.

[c] Minnesota's Board of Pharmacy considers telepharmacies on a case-by-case basis via "variance requests." The Board has issued guidance outlining its requirements for telepharmacy approval.

[d] Nebraska's legislature has authorized the use of telepharmacy, but no administrative rules exist outlining its use.

[e] Tennessee permits the use of telepharmacy only in Federally Qualified Health Centers: Tenn. Code Ann. § 63-10-601; Federally Qualified Health Center Prescription Drug Dispensing Pilot Program.

[f] Connecticut solely permits the use of telepharmacy in hospitals to dispense sterile products through a pilot program.

[g] New York State Assembly proposed legislation (bill number A05091) that would establish and authorize the use of telepharmacy in the state. The bill has been held for consideration in the Higher Education Committee since May 25, 2016.

Telepharmacy regulation falls within the purview of state legislatures and administrative agencies (such as boards of pharmacy); therefore, telepharmacy implementation varies significantly from state to state. Our review of rules and statutes showed that pharmacy boards have set rules covering telepharmacy in 21 states where telepharmacy has been authorized. Some state legislatures and/or agencies impose stringent requirements regulating the operation of telepharmacies, while others give greater discretion to the telepharmacies themselves. That variation can be classified based on criteria such as geographic limitations, facility restrictions, supervisory and staffing requirements, and inter-state provision:

- Nearly half (10) of the states prohibit the operation of telepharmacies falling within a certain radius of existing pharmacies. For example, Colorado specifies that remote pharmacy locations must be located at least 20 miles from any pharmacy or telepharmacy outlet. Other states are much less specific about geographic limitations on remote pharmacy locations. South Dakota limits remote pharmacies to those communities where there is a demonstrated limitation on access to pharmacy services. Six of the states have no telepharmacy-specific language governing the location of remote pharmacy locations.
- Most states do not impose restrictions on the types of facilities that may be used as a remote pharmacy location. But several of the states (6) limit the location of a telepharmacy to specific facility types. Texas restricts telepharmacies facilities to rural health clinics, health centers, or healthcare facilities located in a medically underserved area as defined by state or federal law.
- More than half of the states (13) have rules for staffing that are specific to telepharmacy locations. These rules include restrictions on the supervision of remote pharmacies (Illinois limits hub pharmacists to electronic supervision of no more than three simultaneously open remote sites), and training and certification requirements for remote pharmacy staff (Minnesota requires remote pharmacy staff to be registered technicians certified through a Board-approved program, and must have a minimum of 1 year (2080 hours) experience as a registered technician).
- Several states (5) have regulations regarding inter-state provision of telepharmacy services. For example, New Mexico requires that both the hub pharmacy and all remote tele-pharmacies must be located within the state.

Table 2. State Rules/Regulations Governing Telepharmacy Implementation, August 2016
State rules/statutes containing language limiting telepharmacy implementation are indicated with an '*'. For a more detailed table, see the RUPRI Center web site (ruprihealth.org).

State	Geographic Restrictions	Facility Restrictions	Permitted Providers	Staffing Requirements	Inter-State Accessibility
Alaska	*		*		
Colorado	*		*		
Hawaii	*		*		
Idaho	*	*	*	*	
Illinois			*	*	*
Indiana		*	*	*	
Iowa	*		*	*	
Louisiana	*		*	*	*
Minnesota[1]	*		*	*	
Montana	*		*	*	
Nebraska[2]					
Nevada	*		*	*	
New Mexico	*		*	*	*
North Dakota			*	*	*
Oregon		*			
South Dakota	*	*	*	*	
Tennessee	*		*		
Texas	*	*	*		
Utah			*		*
Vermont	*		*	*	*
West Virginia[3]					
Wisconsin		*	*	*	
Wyoming	*		*		

1 These restrictions are based on Minnesota's Board of Pharmacy "Guidance" on Variances for telepharmacies, not rules or statutes. Therefore, these are not rigid requirements.
2 Nebraska currently has legislative approval to authorize telepharmacy, although no board rules have yet been implemented regulating telepharmacy. See §38-2845.01.
[3] West Virginia currently has legislative approval to authorize telepharmacy, although no board rules have yet been implemented regulating telepharmacy. See §15-1-28.

Discussion

Since 2010, the use of telepharmacy services has expanded rapidly nationwide. This rapid expansion has led to a wide discrepancy in the robustness of rules and statutes outlining the practice of telepharmacy. Some states, such as North Dakota, South Dakota, New Mexico, and Wyoming, specifically define telepharmacy and have self-contained provisions outlining the requirements for telepharmacy operation. Other states,

such as Minnesota and Oregon, though permitting the use of telepharmacy on a limited basis, fall far below the standard set by the aforementioned states.

Despite the rapid expansion in the availability and use of telepharmacy services, the majority of states (27) do not currently authorize the use of telepharmacy. However, 11 states provide an opportunity to develop telepharmacy initiatives. In Michigan, for example, the board of pharmacy may approve a pilot project that "is designed to utilize new or expanded technology or processes and to provide patients with better pharmacy products or provide pharmacy services in a more efficient manner." [5] In North Carolina, the board of pharmacy may waive the enforcement of specific rules governing the practice of pharmacy so long as any deviations from ordinary practice are intended to yield positive results on the practice of pharmacy and do not compromise patient health and safety.[6] These two states demonstrate some of the rationale typically required to justify the creation of new pilot programs or waivers to existing rules. As increasing access to care continues to remain a major focus of state and federal policy makers, these 11 states may very well develop telepharmacy initiatives in the near future.

On July 1, 2016, West Virginia became the latest state to authorize the use of telepharmacy.[7] The New York State Assembly has also proposed legislation that would authorize the use of telepharmacy. This legislation has been pending consideration in the Committee of Higher Education since May 25, 2016.[8] If this bill is approved, New York will become the twenty-fourth state to authorize telepharmacy in some capacity and will continue the trend toward the inclusion of telepharmacy in the standard practice of community pharmacy.

Access to pharmaceutical services remains a concern in many rural communities even as the pace of local pharmacy closure has slowed.[9,10] Local pharmacists have clinical roles in the local community beyond filling prescriptions, including serving other local health care organizations[11] and providing consultations to rural residents. Telepharmacy cannot duplicate all roles provided by local retail pharmacies, but where local retail pharmacies cannot be sustained, important roles, particularly counseling, may be served through telepharmacy.

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