

## Trending in Telehealth : March 28 – April 3, 2023

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### Trending in the past week:

- Interstate Compacts
- COVID-19 Extensions for Licensing
- Behavioral Health

## A CLOSER LOOK

### Finalized Legislation & Rulemaking

- In **Vermont**, [H 411](#) was signed into law. As noted in last week's report, the bill extends Vermont's telehealth registration for out-of-state healthcare professionals until a permanent telehealth licensure and registration system is operational. The registration, which was previously set to expire on June 30, 2023, provides a telehealth registration for out-of-state healthcare professionals who file an application and meet certain requirements to provide telehealth services in Vermont, which is more expeditious than the state's licensure process. The registration is extended until March 31, 2024. The bill also extends certain enforcement discretion provisions. For example, the bill clarifies that the state will not penalize providers for using telehealth services that do not comply with the requirements of the Health Insurance Portability and Accountability Act of 1996. The bill states that the extension of these provisions is subject to federal law or guidance regarding enforcement discretion. Notably, federal HIPAA enforcement discretion is set to end on May 11, 2023, at the end of the federal public health emergency.
- In **Idaho**, [H 61](#) was signed into law and becomes effective on July 1, 2023. The bill allows a mental or behavioral health provider who is not licensed in Idaho to provide services via telehealth to an Idaho resident or person located in Idaho. The provider must meet certain qualifications, such as holding a current, valid and unrestricted license in another state with

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substantially similar requirements to Idaho and not being subject to any past or pending disciplinary proceedings. The provider must also biennially register in Idaho to provide telehealth services.

- In **Washington**, [SB 5036](#) was signed into law. As noted in last week's report, the bill extends the timeframe in which real-time, audio-visual telemedicine services can be used to establish a provider-patient relationship for the purpose of providing audio-only telemedicine for certain healthcare services. Under the bill, a provider can use simultaneous audio and video technology to establish a provider-patient relationship through July 1, 2024, as opposed to the previous deadline of January 1, 2024. The bill suggests that after the 2024 deadline, a provider will need to see a patient in person within a certain time period to establish a provider-patient relationship.

## Legislation & Rulemaking Activity in Proposal Phase

### Highlights:

- In **Kansas** ([HB 2288](#)), **Oklahoma** ([SB 575](#)) and **North Dakota** ([SB 2187](#)), legislation progressed to establish the Counseling Compact. In **Indiana** ([SB 73](#)) and **Washington** ([HB 1001](#)), legislation progressed to enact the Occupational Therapy Compact and the Audiology and Speech-Language Pathology Compact, respectively.
- In **Maryland** ([HB 1148](#)), legislation progressed to the second chamber. If enacted, the bill would extend the inclusion of certain audio-only telephone conversations in the definition of "telehealth" in the Maryland Medical Assistance Program until June 30, 2025 (instead of June 30, 2023). The bill also would extend certain requirements related to reimbursement for telehealth services by the Program and certain insurers, nonprofit health service plans and health maintenance organizations to June 30, 2025.
- A **New Hampshire** bill ([SB 238](#)), if enacted, would create an exception for mental health conditions in the prohibition against prescribing controlled substances via telemedicine. "Mental health conditions" is not defined.
- An **Illinois** bill ([HB 559](#)) would allow any person who was issued a temporary out-of-state permit by the Illinois Department of Financial and Professional Regulation during the COVID-19 pandemic to continue to practice under that temporary permit if that individual submits an application for licensure by endorsement to the Department on or before May 11, 2023. The applicant could continue to practice under the temporary out-of-state permit until the Department issued the license or denied the application, at which time the temporary out-of-state permit would expire. The bill would also change the definition of "direct supervision" for a speech language pathologist assistant to include video conferencing as a method of supervision.

### Why it matters:

- **States are extending measures adopted during the COVID-19 pandemic in anticipation of the federal public health emergency coming to a close.** Vermont's enacted legislation and Illinois's proposed legislation to extend state COVID-19 flexibilities indicate that states

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may continue to permanently adopt the flexibilities afforded to providers during the pandemic, particularly in relation to out-of-state registrations and licensure flexibilities.

- **Elevated activity involving the adoption of interstate compacts continues.** Many states are progressing legislation that would enact various licensure compacts, across various professions, easing burdens to licensure and reciprocity for professionals seeking to practice across state lines.
- **States continue to address mental health care via telehealth.** The enacted legislation in Idaho, which takes effect on July 1, 2023, along with the proposed legislation in New Hampshire, indicates that states are looking to address the provision of mental health care via telehealth, accounting for aspects such as licensure hurdles and prescribing limitations.

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