

**CENTER FOR CONNECTED  
HEALTH POLICY**

The Center for Connected Health Policy (CCHP) is a public interest nonprofit organization that develops and advances telehealth policy solutions to promote improvements in health and health care systems.

Telehealth expands access, particularly among underserved communities, and improves the efficiency and cost effectiveness of health care systems. With these benefits in mind, CCHP:

- Promotes policies that expand telehealth program adoption;
- Conducts objective research and policy analysis;
- Develops nonpartisan policy recommendations;
- Serves as a state and national resource on telehealth policy issues.

In its work as the federally designated National Telehealth Policy Resource Center (NTRC-P), CCHP provides technical assistance to twelve regional telehealth resource centers (TRCs) nationwide. The NTRC-P project is made possible by Grant #G22RH24746 from the Office of the Advancement of Telehealth, Health Resources and Services Administration, Department of Health and Human Services.

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## HR 3507 – 21st Century Care for Military and Veterans Act

Reps. Scott Peters (D-CA), Mike Thompson (D-CA), Peter Welch (D-VT), and Gregg Harper (R-MS)

Author Intent: To expand the use of telehealth under the TRICARE program in the Department of Veterans Affairs, and for other purposes.

BILL DRAFT	CURRENT LAW
<p><b>Telehealth Under TRICARE Program</b></p> <p><b>Care Provided at Military Medical Treatment Facilities:</b> The Secretary may furnish healthcare to a covered beneficiary (described in current law section) via a telecommunications system.</p>	<p>A dependent of a member of a uniformed service may be given certain types of medical and dental care in facilities of the uniformed services, subject to the availability of space, facilities, and capabilities of medical and dental staff, once the member or former member would have attained age 60.</p> <p>The law is currently silent on the use of telehealth.</p>
<p><b>Telehealth Under TRICARE Program</b></p> <p><b>Care Provided at Private Facilities:</b> An item or service furnished to a covered beneficiary (described in current law section) via a telecommunications system shall be covered by a plan to the same extent that the item or service would be covered in the same location as the individual. Benefits shall not be denied solely on the basis that the item or service is furnished via a telecommunications system.</p>	<p>The Secretary of Defense shall contract for medical care for certain service members, former service members, and their dependents under such insurance, medical service, or health plans as he considers appropriate.</p> <p>The law is currently silent on the use of telehealth.</p>

BILL DRAFT	CURRENT LAW
<p><b>Health Care Provided by the Department of Veterans Affairs</b></p> <p><b>Direct Care:</b> The Secretary may furnish an item or service via a telecommunications system.</p> <p><b>Contracted Care:</b> An item or service furnished to a covered beneficiary via a telecommunications system shall be covered by a plan to the same extent that the item or service would be covered if furnished in the same location as the individual. Benefits shall not be denied solely on the basis that the item or service is furnished via a telecommunications system.</p>	<p>The Secretary shall carry out an initiative of teleconsultation for the provision of remote mental health and traumatic brain injury assessment in facilities of Departments that are not otherwise able to provide such assessment without contracting with third party providers, or reimbursing providers through a fee basis system.</p>
<p><b>TRICARE and Department of Veterans Affairs</b></p> <p>For the purposes of reimbursement, licensure, professional liability, and other purposes, with respect to the provision of telehealth services, practitioners, suppliers, and providers of such services are considered to be furnishing such services at their location, not at the originating site. (Applicable to 38 USC Ch. 17 &amp; 18, 10 USC Sec. 1079 &amp; 1086)</p>	<p>Currently, a service is considered to take place where the patient is located, requiring providers to be subject to the laws of the patient's state.</p>
<p>The Act would take effect on January 1, 2015, and apply to items or services furnished on or after such date.</p>	<p>N/A</p>

## Impact and Analysis

If passed, HR 3507 would stipulate that TRICARE, the health care program serving Uniformed Service members, retirees, and their families, may provide and must reimburse certain beneficiaries for services furnished via a telecommunications system. Similarly, it stipulates that the Department of Veterans Affairs may provide direct care and must reimburse contracted care furnished to a covered beneficiary via a telecommunications system.

Although the VA has been a leader in the field of telehealth, there is nothing in Title 38 (Veterans Benefits) of the US Code which authorizes the VA to provide or reimburse for telehealth services beyond the narrowly defined teleconsultation initiative. HR 3507 would provide the VA with clear authorization to provide services using telecommunications systems.

Although the word “telehealth” is used in the description of HR 3507, the title of Section 2, and in relation to determining the site of service, “telecommunications system” is used throughout the remainder of the bill. HR 3507 does not define “telecommunications system,” making it unclear if “telecommunications system” is being used interchangeably with the term “telehealth.” It is also unclear whether or not store-and-forward or remote patient monitoring systems would be included under the term “telecommunications system.” Additionally, there is no definition of “telecommunications system” in either titles of US Code (Titles 10 and 38), which the bill amends.

The language used in HR 3507 to mandate reimbursement for services delivered via telecommunications systems mirrors many state's private payer laws. Although most states use the terms "telemedicine" or "telehealth" instead of "telecommunications system," state private payer telehealth laws commonly require telehealth coverage to the same extent as if the service was furnished in person (or face-to-face). Further, many of these laws prohibit benefit denial solely on the basis that the service was furnished via telehealth or telemedicine. Both stipulations are requirements of HR 3507.

For purposes of health care liability, licensure, and reimbursement (and other purposes), services would be considered furnished from the provider site. This means that when telehealth is used by a patient and provider in different states, the provider would no longer need to comply with the malpractice, licensure, and other laws of the patient's state, as is current law. If a malpractice suit were to arise, for example, it would need to be filed in the state of the provider, not the patient. This would prevent providers from worrying about the state licensing and other laws, and ensuring their liability insurance covers them in the patient state, every time they treat an out-of-state patient. This language is similar to HR 3306 (Harper), also introduced during the 2013 legislative session, which would change the site of service to the site of the provider for liability purposes only. HR 3306 would only apply to Medicare healthcare encounters, while this bill would only apply to services delivered through the VA and TRICARE.