



September 1, 2016

The Honorable John McCain  
Chairman  
Senate Committee on Armed Services  
228 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Jack Reed  
Ranking Member  
Senate Committee on Armed Services  
228 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Mac Thornberry  
Chairman  
House Committee on Armed Services  
2216 Rayburn House Office Building  
Washington, D.C. 20515

The Honorable Adam Smith  
Ranking Member  
House Committee on Armed Services  
2216 Rayburn House Office Building  
Washington, D.C. 20515

**RE: National Defense Authorization Act for Fiscal Year 2017 – TRICARE / Telehealth**

Dear Chairmen McCain and Thornberry, and Ranking Members Reed and Smith:

On behalf of the American Academy of Family Physicians (AAFP), which represents 124,900 family physicians and medical students across the country, I write to address a provision in the Senate-passed version of the *National Defense Authorization Act* for FY2017 (NDAA). The AAFP applauds you on the addition of a telehealth benefit to the TRICARE program, but urges you to reject Section 705(d) of S 2943 as passed by the Senate, which would undermine the state-based system of medical licensure and “federalize” medical licensure for physicians who treat America’s more than 8 million TRICARE beneficiaries.

S 2943, as passed by the Senate, contains a new telehealth benefit in TRICARE. Under this benefit, the Secretary of Defense “shall incorporate . . . the use of telehealth services . . . to improve access to primary care, urgent care, behavioral health care, and specialty care; to perform health assessments; to provide diagnoses, interventions, and supervision; to monitor individual health outcomes of covered beneficiaries with chronic diseases or conditions; to improve communication between health care providers and patients; and to reduce health care costs for covered beneficiaries and the Department of Defense.” The AAFP applauds your incorporation of telehealth services into the TRICARE program.

Section 705(d), however, provides that “for purposes of reimbursement, licensure, professional liability, and other purposes relating to the provision of telehealth services under this section, providers of such services shall be considered to be furnishing such services at their location and not at the location of the patient” (emphasis added). If enacted, this language will supplant longstanding state rules providing that when provider and patient are in different jurisdictions, the law of the place of the patient governs. Section 705(d) would effectively allow a physician

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with a single state license to provide care via telehealth to any TRICARE beneficiary in any state, where the rules of the jurisdiction in which the physician is licensed are imposed on the jurisdiction in which the patient is located.

While this language would indeed ease barriers that hinder the free flow of telehealth services, it also would undermine the existing system of medical licensure, under which each state governs the practice of medicine within its borders. Allowing physicians with a single license to treat TRICARE beneficiaries in any state via telemedicine would create episodes of medical care that the state in which the patient resides cannot readily regulate, if at all. Section 705(d) therefore portends a troubling scenario under which state licensing boards will lack the authority to discipline physicians who are practicing medicine within that state's borders.

On the other hand, physicians who wish to practice in multiple states can and frequently do receive multiple state licenses. In addition, an Interstate Medical Licensure Compact—currently making its way through the state legislatures (17 as of the date of this letter)—will ease the burden of becoming licensed in multiple jurisdictions, without eroding the states' role in regulating the practice of medicine. The AAFP encourages states to engage in reciprocity compacts for physician licensing—specifically for the purpose of promoting the free flow of telehealth services—and views this as the more appropriate method to ease the barriers to telehealth erected by state licensure, while ensuring patient safety and physician accountability.

Thank you for your leadership and your attention to this matter. While small within the scope of the NDAA, this is an important issue to the practice and delivery of family medicine to TRICARE beneficiaries. For any additional questions you might have about the AAFP's perspectives, please have your staff contact Andrew Adair, Government Relations Representative, at [aadair@aafp.org](mailto:aadair@aafp.org).

Sincerely,

A handwritten signature in black ink that reads "Robert L. Wergin MD". The signature is fluid and cursive, with "Robert L." on the top line and "Wergin MD" on the bottom line.

Robert L. Wergin, MD, FAAFP  
Board Chair