November 2, 2015

South Carolina Board of Medical Examiners
110 Centerview Drive
Columbia, SC 29210

RE: ATA request for clarification on Board's Telemedicine Guidance

Dear Dr. Gardner and Members of the Board:

In our review of the SC Board of Medical Examiner’s August 3rd guidance on “Telemedicine” and “Establishment of Physician-Patient Relationship as Prerequisite to Prescribing Drugs” the American Telemedicine Association (ATA) has identified a number of areas in which telemedicine providers are held to a different and higher standard compared to in-person service providers. The Board states that “telemedicine providers are expected to adhere to current standards for practice improvement”, yet the guidance indicates a separate and different standard of practice for duly licensed SC physicians that use telemedicine thus creating two different standards of care for patients in the same state.

Although the Board’s guidance is not traditionally enforceable, ATA would like clarification on the following points:

• The Board deems it unprofessional conduct for a duly licensed physician to prescribe medication in a telemedicine encounter within a practice setting not approved by the Board. What practice settings has the Board approved for licensed medical practice, in-person and telemedicine, in SC?

• The Board deems it unprofessional conduct for a duly licensed physician to prescribe any controlled substances or lifestyle medications in a telemedicine encounter. On what basis did the Board determine that using telemedicine to prescribe medications in medical emergencies, mental health treatment, hospice and palliative care pain management and treatment, hormone replacement therapy, and reproductive health would deviate from the standard of care?

• The Board’s position is that “there is not a separate standard of care applicable to telemedicine”. However, it has also come to our attention that the Board requires all duly licensed SC physicians using telemedicine to seek additional Board approval before using the technology. On what basis is a SC medical license not enough to practice on patients located in SC via telemedicine or in-person?

In light of the recent FTC guidance on regulatory boards and anticompetitive activity, we urge the Board of Medical Examiners to propose consistent application among medical practices.

Thank you for your consideration. We look forward to your prompt response.

Sincerely,

Latoya Thomas
Director, State Policy Resource Center

Attachments: ATA State Telemedicine Toolkit – Working with Medical Boards: Ensuring Comparable Standards for the Practice of Medicine via Telemedicine