Dear Ms. Shaner and Members of the Board:

It is our pleasure to provide these comments before the Alabama Board of Medical Examiners regarding proposed rules for telehealth.

First, it is important to note that telehealth is not a type of health care, but a way to provide an increasing range of specific health services and in an increasing range of patient circumstances using telecommunications. As such ATA believes that two guiding principles should follow: to do what is best for a patient and respect patient choice.

Some providers and institutions actively engaged in telemedicine are wary of any separate regulation of telehealth or services such as internet prescribing, preferring that existing rules regarding patient-provider relations is held intact. Others are anxious about the breadth and nature of the regulations proposed by the Alabama State Board.

Our comments here are a good faith effort to improve and refine any final rulemaking. We believe that a regulation that is appropriate in 80% of the situations is not good enough. Good regulations need to work in 100% of the actual situations. We appreciate the sensitivity to the range of situations reflected in the Board’s proposed rulemaking.

**Comparable to regulation of in-person care**

As much as possible, the practice of telehealth should not be regulated differently than in-person care. Certainly, there are important clinical differences that should be recognized, allowed, and appropriately regulated.

One area where higher, tougher standards are proposed for telehealth only is regarding notices to patients under 540-X-15.04.

Specifically, there should not be regulatory differences with in-person care requirements regarding:

- providing a patient with written notification of the provider’s privacy practices
- requiring a good faith to obtain a patient’s written acknowledgment of such a notice, and
- notice regarding the limitations of the method of service

**Recognition of emergency circumstances**

One of the important uses of telehealth is in emergencies, including both a patient’s medical emergency and natural disasters and other types of an emergency affecting a locality. Some
times telehealth is the only alternative to no care. It is important that regulations not hinder patients from getting the best that can be done under extenuating circumstances.

The proposed rulemaking does not make any allowance for emergencies, including a one-time medical intervention.

**Accommodation of remotely-provided interpretative services**

The most common current use of remotely-located physicians is for interpretative services of diagnostic or treatment information, such as a radiologist interpreting a CT scan, a pathologist interpreting a tissue specimen, or a dermatologist monitoring wound treatment. Sometimes such applications are not even considered “telehealth,” but being a 21st century physician.

In particular, the proposed definition of “telehealth medical service” in 540-X-15-.02(10) should exclude services that can be rendered without direct interaction with a patient.

**Other specific comments**

1. The requirement for an annual “in-person evaluation” (540-X-15.06(3)) may be clinically unnecessary in all circumstances – and cost inducing.

2. The reference to “scheduled drugs” in 540-X-15-.06(4) should recognize other federally-sanctioned medical sites under the Ryan Haight Online Pharmacy Consumer Protection Act (Public Law 110-425), notably the provision codified at 21 USC 802(54).

3. The prohibition on all “online or telephonic evaluation solely be questionnaire” (540-X-15.07(3)) may be excessive.

We look forward to working with you and our members providing services in Alabama on this proposed rulemaking and other medical licensure and practice issues.