

A stylized sunburst graphic with multiple lines radiating from the left side of the slide, set against an orange background.

# **FEDERAL & STATE TELEHEALTH POLICY UPDATE**

**NORTHWEST TELEHEALTH RESOURCE CENTER  
CONFERENCE**

**October 2, 2018**

# DISCLAIMERS

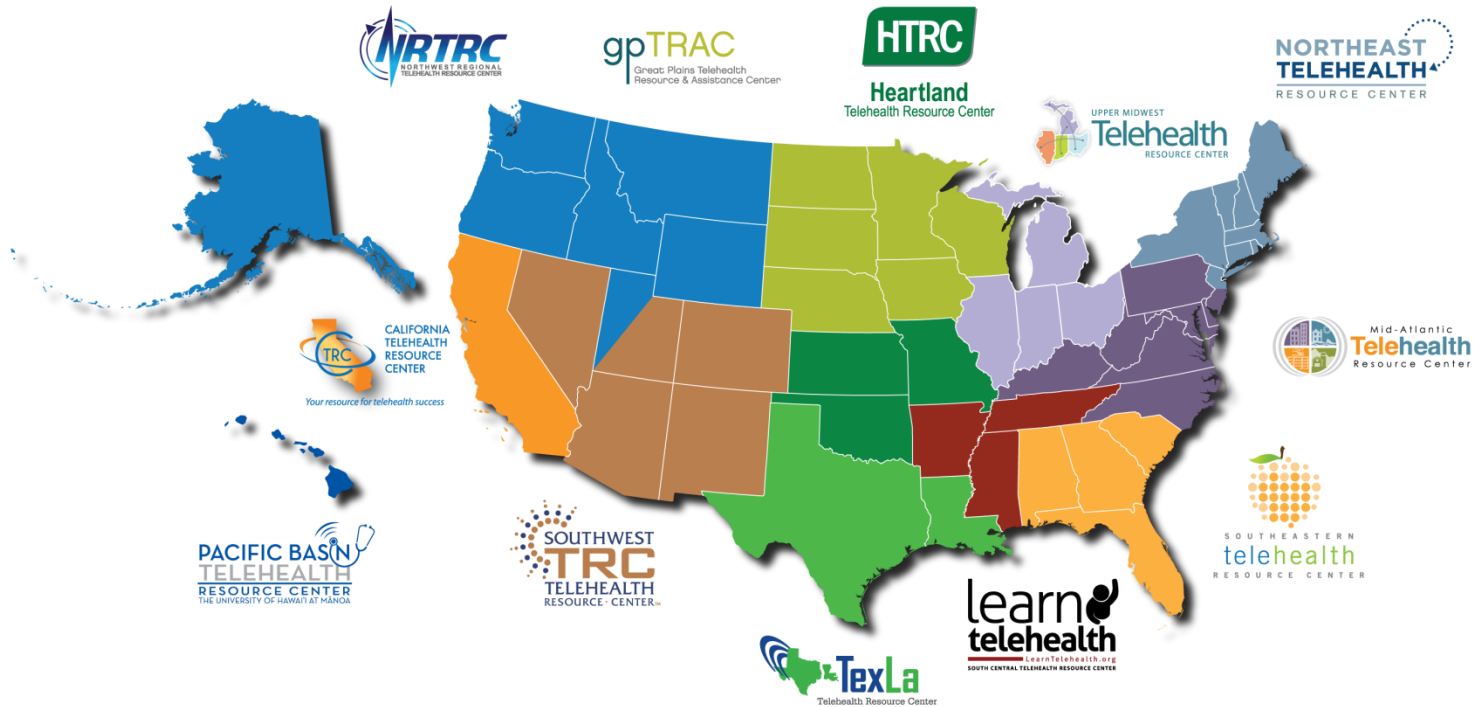
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- Always consult with legal counsel.
- CCHP has no relevant financial interest, arrangement, or affiliation with any organizations related to commercial products or services discussed in this program.





CCHP is an independent, *public interest* organization that strives to advance state and national telehealth policies that promote better systems of care improved health outcomes and provide greater *health equity of access to quality, affordable care and services.*





2 National Resource Centers

NRTRC	gpTRAC	NETRC
CTRC	HTRC	UMTRC
SWTRC	SCTRC	MATRC
PBTRC	TexLa	SETRC

12 Regional Resource Centers



**TELEHEALTH**  
RESOURCE CENTERS



CENTER FOR CONNECTED HEALTH POLICY

# TELEHEALTH STATE-BY-STATE POLICIES, LAWS & REGULATIONS



National Policy

State Laws and Reimbursement  
Policies

Current Laws,  
Regulations,  
Pending Bills  
State & Federal

Medi-Cal

Telehealth Advancement Act



Government Health Care  
Congress 2015 ; Medicaid  
Summit »

JULY 14-16, 2015

Arlington, Virginia

Don't miss the opportunity to hear  
CCHP's executive director, Mario  
Gutierrez, speak at the 2015  
Government Health Care Congress;  
Medicaid Summit! Health insurance  
executives, state and federal officials  
will gather across three summits to  
discuss the future of Medicaid  
expansion, Medicare regulations,  
access to care, cost savings and Dual  
Eligible demonstrations. For more  
information or to register for this  
conference visit the World Congress

Home » Telehealth Policy » National Policy » State Laws and Reimbursement Policies

## State Laws and Reimbursement Policies

The Center for Connected Health Policy helps you stay informed about telehealth-related laws, regulations, and Medicaid programs. We cover current and pending rules and regulations for the U.S. and all fifty states.



All Current Laws and Policies

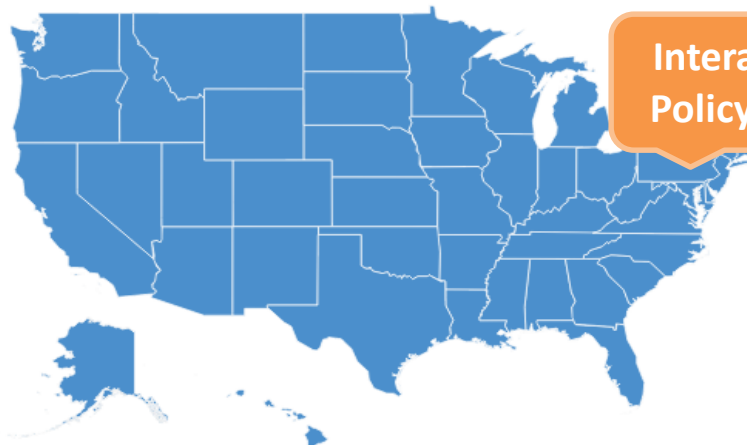


All Pending Legislation and  
Regulations



Full Report  
"State Telehealth Laws and  
Reimbursement Policies"

### Law and Policies by State:



Interactive  
Policy Map

# MEDICARE

## SOCIAL SECURITY ACT OF 1835(m) or 42 USC 1395m

- Only Live Video reimbursed
- Store & Forward (Asynchronous) only for Alaska & Hawaii demonstration pilots
- Specific list of providers eligible for reimbursement
- Limited to rural HPSA, non-MSA, or telehealth demonstration projects
- Limited types of facilities eligible
- Limited list of reimbursable services, but CMS decides what can be delivered via telehealth and reimbursed



# PROPOSED LEGISLATIVE SOLUTIONS

- **HR 2550 (Thompson & Harper) - Medicare Telehealth Parity Act of 2017**
  - Expands under Medicare eligible facilities and a phased-in approach to eliminate geographic restrictions
  - ***Allow FQHCs and RHCs to act as distant sites***
  - Expand list of eligible providers
  - Include RPM
- **HR 2291 (Duffy) - Helping Expand Access to Rural Telemedicine (HEART) Act of 2017**
  - For Medicare, allow S&F for CAHs, RHCs and sole community hospitals
  - Allow for RPM under certain circumstances
  - ***Distant site can be an RHC***
  - Adds sole community hospital to originating site
  - Expands list of eligible providers to some allied professionals (PT, OT, etc.)
- **HR 3360 - Telehealth Enhancement Act Of 2017**
  - Exempt new sites from Medicare's current geographical restrictions (CAHs, sole community hospitals, home)
  - Allow for S&F for CAHs and sole community hospitals
  - Encourages but not mandates use of telehealth in certain programs such as authority to CMS to contract with State Medicaid agencies to coordinate care through a home health for patients with chronic conditions and requires provider to report a plan for use of RPM



# FEDERAL UPDATE

- Current Legislation
  - Opioid bills that include telehealth elements
    - Changes to originating sites/geographic limits
    - Increased flexibility to Ryan Haight Act
  - Existing legislation that continues to look at expanding the utilization of telehealth, but has not moved
  - VA legislation
- RAND ECHO report
- FCC Pilot for Low-Income Americans - \$100 million for telehealth
- AMA new CPT codes for RPM & interprofessional internet consultation codes





# CMS & TELEHEALTH

- **PROPOSED CHANGES**  
**CY 2019 PFS**

- *Brief Communication Technology-based Service, e.g. Virtual Check-in* - Would include check-in services used to evaluate whether or not an office visit or other service is necessary.
- *Remote Evaluation of Pre-Recorded Patient Information* – Would create a specific new code to describe remote professional evaluation of patient-transmitted information conducted via pre-recorded “store and forward” video or image technology.
- *Interprofessional Internet Consultation* - Would cover consultations between professionals performed via communications technology such as telephone or Internet.
- **A call for comments for the concept of CMS is considering developing separate bundled payment for an episode of care for treatment of Substance Use Disorders (SUD), which can include elements of Medication Assisted Therapy (MAT), including potentially web-based routine counseling.**



# CMS & TELEHEALTH

- **PROPOSED CHANGES**

## **CY 2019 PFS**

- *FQHC/RHCs* - CMS in the last few years have approved codes that would allow FQHCs and RHCs to bill for the CCM codes though those services are not the type of services these organizations are able to bill due to how a “visit” is defined. This trend is continuing as CMS in the aforementioned FY 2019 proposal for Virtual Check-in and Remote Evaluation of Pre-Recorded Patient Information allows for specific codes to be used by FQHCs and RHCs.



# STATE TELEHEALTH PROGRAMS – NO TWO ARE ALIKE!

45 states

have a definition  
for **telemedicine**

36 states

(and DC) have a  
definition for **telehealth**

1 states

Alabama has **no definition**  
for either



# MEDICAID REIMBURSEMENT BY SERVICE MODALITY

Live Video

49 states and DC

Store and Forward

Only in 15 states

Remote Patient Monitoring

20 states



# PARITY IN PAYMENT WITH IN-PERSON

38 states and DC

have telehealth private payer laws

*Some go into effect at a later date.*

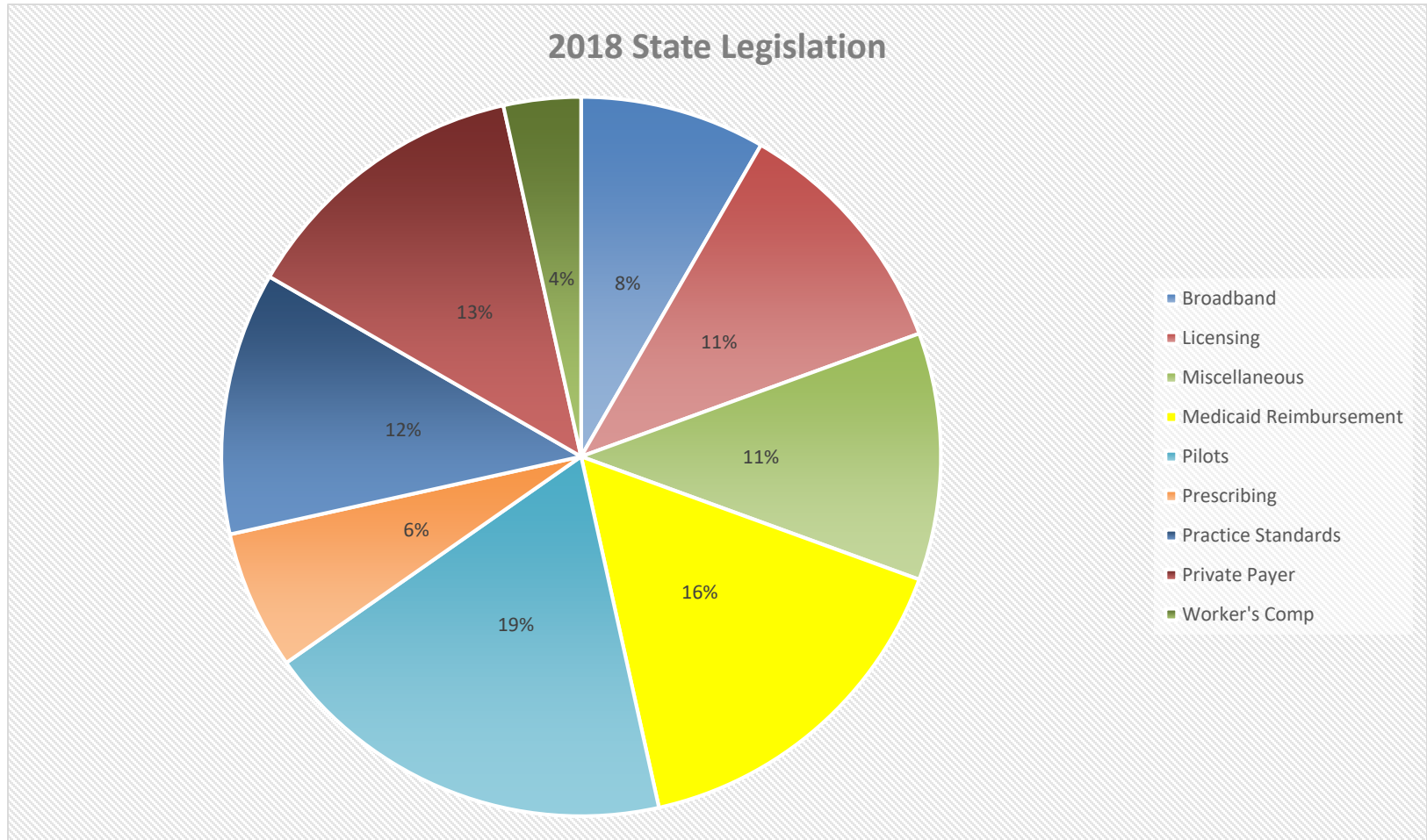
***This is the most common policy change at the state level!***

***Parity is difficult to determine:***

- Parity in services covered vs. parity in payment
- many states make their telehealth private payer laws “subject to the terms and conditions of the contract”



# 2018 LEGISLATIVE TRENDS



# OTHER COMMON THEMES

- Allowing schools to be originating sites
- Prohibiting insurers from limiting reimbursement to a specific technology
- Allowing telehealth to meet network adequacy standards
- **Pilots related to incorporating telehealth into substance use treatment programs**
- **Licensure Compacts**



# LICENSING COMPACTS

- Interstate Medical Licensure Compact
  - ❖ Not a multi-state license; it's an expedited process to get a license
  - ❖ State needs to pass legislation to join Compact
  - ❖ 22 states have adopted
- Enhanced Nurses Licensure Compact
  - ❖ One license, multiple states
  - ❖ 31 states have adopted
- Other Compacts:
  - Physical Therapy Interstate Licensure Compact (21 states)
  - PSYPACT – Psychology Interjurisdictional Compact





# PHYSICAL THERAPY INTERSTATE LICENSURE COMPACT

- 21 states are members of the Compact
- 5 states issuing and accepting compact privileges
- Scope of practice PT/PTA follows in the one where patient is located
- Compact Privilege
  - Allows a provider licensed in one compact state to practice in another member state after receiving “compact privilege.”
  - For PTs and PTAs
  - Can still get a license in another compact member state

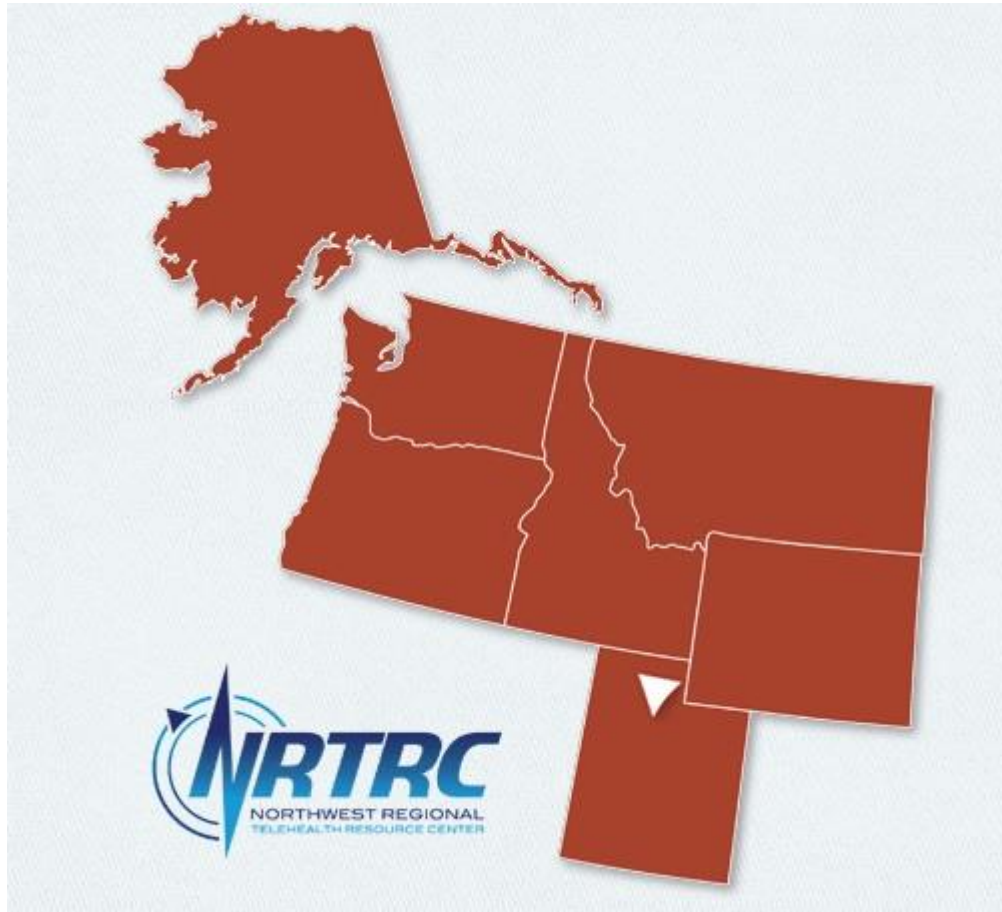


# PSYPACT

- 7 states are members of the Compact (not active as 7<sup>th</sup> state 1/20 timeline)
- The E. Passport promotes standardization in the criteria of interjurisdictional telepsychology practice and facilitates the process for licensed psychologists to provide telepsychological services across jurisdictional lines in jurisdictions.
- The IPC promotes standardization in criteria for short-term practice and interjurisdictional mobility by facilitating the process for licensed psychologists to provide short-term psychological services across jurisdictional lines without obtaining an additional license (30 work days per year).



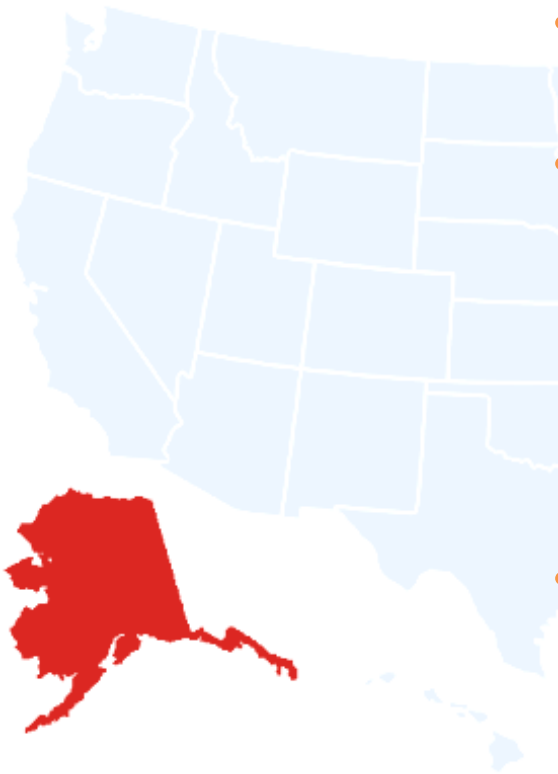
# NRTRC REGION



- Alaska
- Idaho
- Montana
- Oregon
- Utah
- Washington
- Wyoming



# ALASKA



- **Private Payers** – Required to provide coverage for mental health benefits
- **Medicaid**
  - All three modalities covered
  - 2017 clarification that office consultation codes (CPT 99241, 99242, 99243, 99244, 99245 & HCPCS D9310) provided via telehealth is only reimbursed when used as a second opinion.
  - No geographical limitations
- AK Dept of Commerce, Community and Economic Development is required to adopt regulations for establishing and maintaining a registry of businesses performing telemedicine in the state.

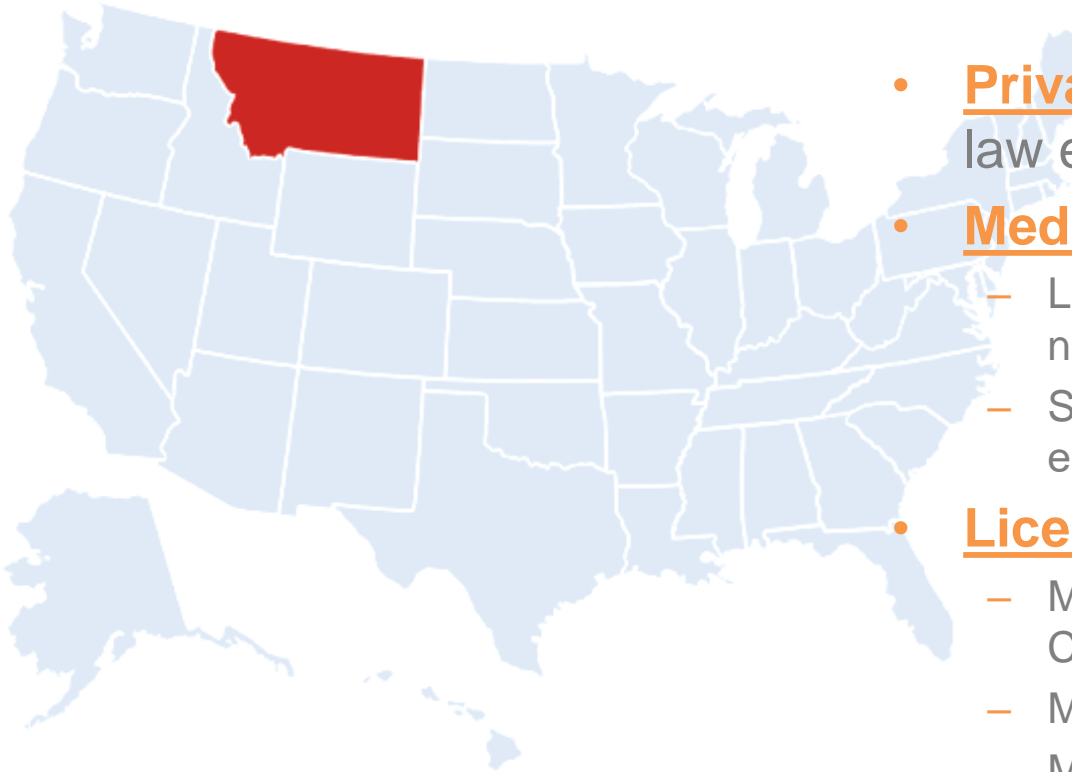


# IDAHO

- Private Payers – No law
- Medicaid
  - Live video is covered for specific services:
    - Primary Care Services
    - Specialty services
    - Psychotherapy with evaluation and management
    - Pharmacological management
    - Therapeutic consultation and crisis intervention
    - Interpretive Services
  - OT, PTs & Speech language pathologists may provide services via telehealth
- Regulations (Medicaid)
  - Timely coordination of services with PCP including summary of visit, list of prescriptions, other patient information including orders for additional services
- Licensure Compacts
  - Physician Licensure Compact
  - Nurse Licensure Compact



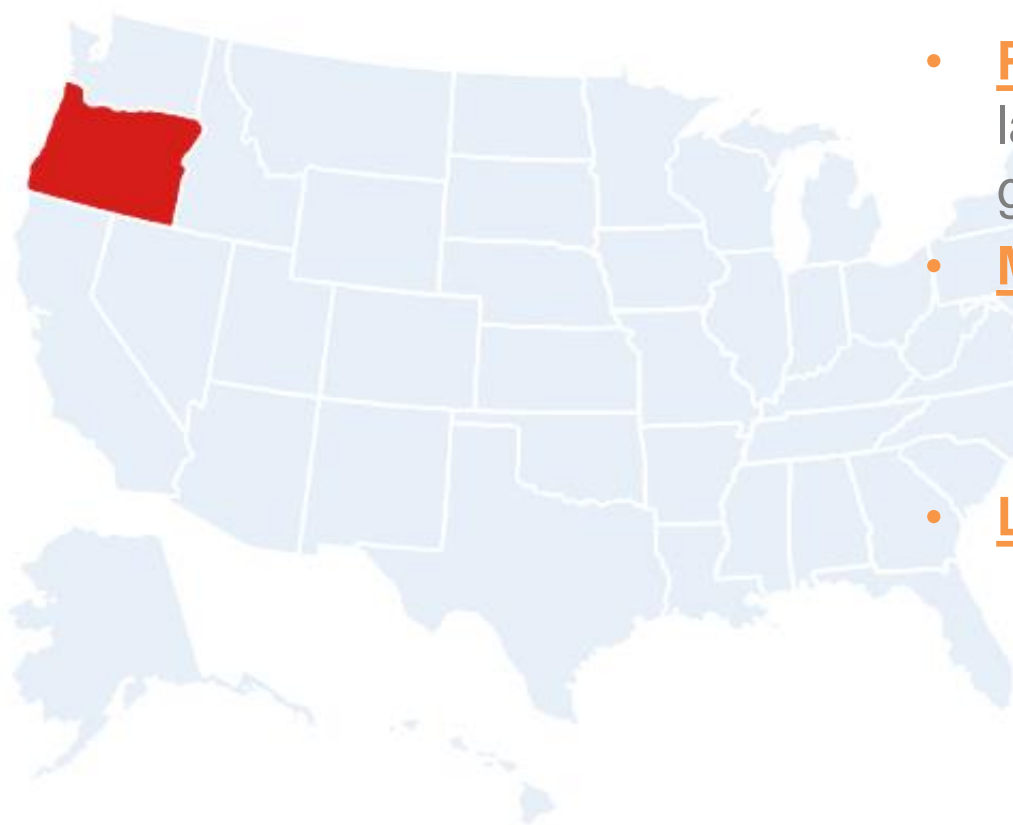
# MONTANA



- **Private Payers** – Private payer law exists
- **Medicaid**
  - Live video is covered for medically necessary services
  - Services can be provided in an enrollee's residence
- **Licensure Compacts**
  - Member of the Physician Licensure Compact
  - Member of Nurse Licensure Compact
  - Member of Physical Therapist Licensure Compact (enacted legislation)



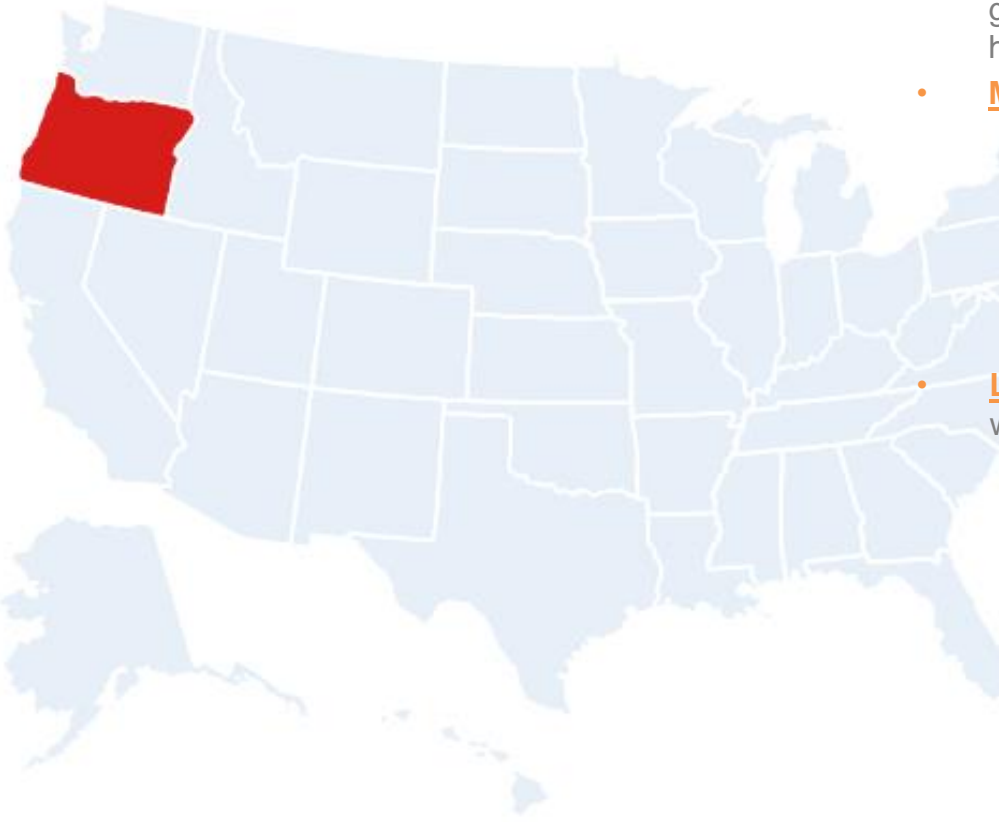
# OREGON



- **Private Payers** – Private payer law exists – plans cannot have geographic limitations
- **Medicaid**
  - Live video
  - Reimburse for phone and email under limited circumstances
- **Licensure Compacts**
  - Member of the Physical Therapist Compact (active)



# UTAH

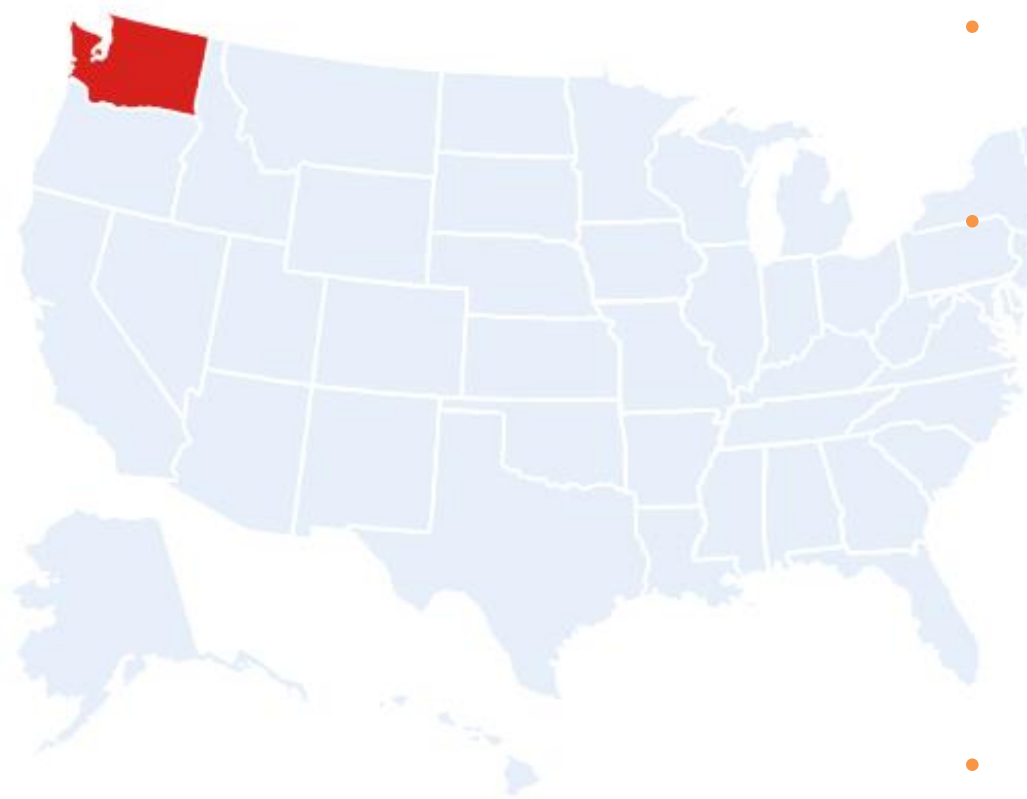


- **Private Payers** – Recently passed private payer law to go into effect Jan 1, 2019. Coverage is only for telemental health
- **Medicaid**
  - Live video – specifically calls out substance use disorder treatment
  - Specifically states provider at originating site receives no additional reimbursement if telemedicine is used, likely no facility fee or transmission fee
- **Licensing** – Out-of-state physician may practice in UT without a UT license if:
  - Licensed in another state with no action pending and at least 10 years experience
  - Services rendered as a public service & non commercial purpose
  - No fee or charges beyond what is expected to cover proportionate cost of malpractice insurance
  - Physician doesn't otherwise engage in unlawful or unprofessional conduct.
  - Member of Nurse Licensure Compact
  - Member of Physical Therapist Licensure Compact (enacted legislation)
  - Member of PSYPACT





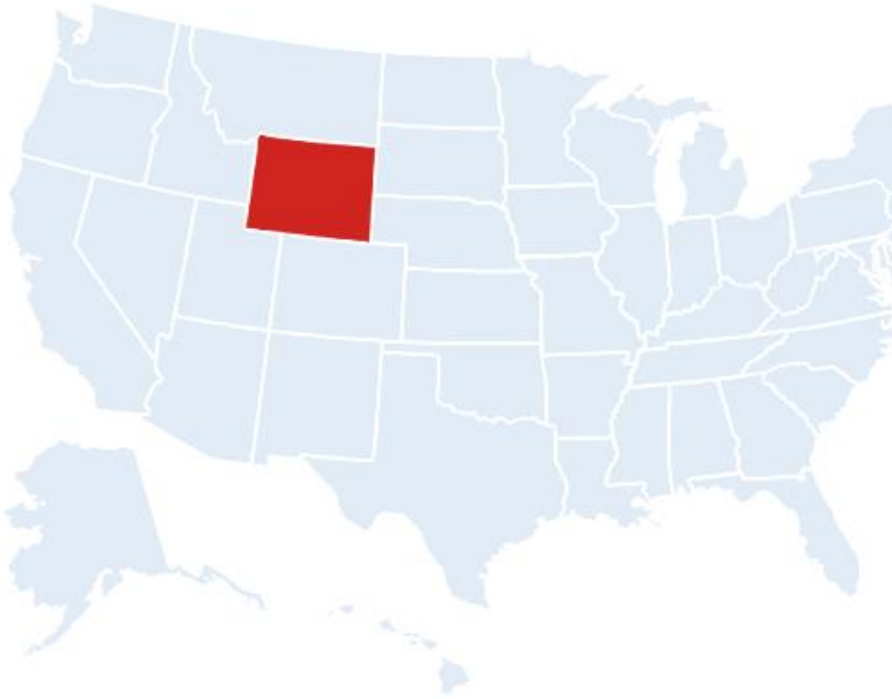
# WASHINGTON



- **Private Payers** – Private payer law exists – includes reimbursement for S&F
- **Medicaid**
  - Live video – Must be medically necessary
  - Managed Care plans telehealth not reimbursed separately, all services must be arranged and provided by PCP.
  - Teledermatology via S&F reimbursed, **appears** to pay for other specialties
  - Home health services reimbursed with certain caveats
- **Licensure Compacts**
  - Member of the Physician Licensure Compact
  - Member of Physical Therapist Licensure Compact (enacted legislation)



# WYOMING



- **Private Payers** – No private payer law
- **Medicaid**
  - Live video – Reimbursed
  - Specific list of eligible providers who are reimbursed
  - Will reimburse for originating site fees
- **Licensure Compacts**
  - Member of the Physician Licensure Compact
  - Member of Nurse Licensure Compact



A stylized sun graphic with a semi-circular face on the left and numerous long, thin rays extending across the top half of the image. The background is a solid orange color, and the bottom half of the image is a solid grey color.

# **THANK YOU!**

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