State Policy Agenda for Telehealth Innovation

Millions of Americans tried telehealth for the first time during the COVID-19 pandemic. Federal officials made select changes to the Medicare program. Governors advanced access with flexible provider licensure for new telehealth uses by executive order.

Once public health emergency declarations start to end, or executive orders are withdrawn, many of the new flexibilities will be lost.

Innovations such as team-based care for diabetes, 24/7 mental health services during a behavioral health crisis, or remote monitoring that shows data on how the patient is reacting to treatments, all become more accessible to patients and providers when barriers are removed.

States need to refocus their efforts to ensure clear laws and guidelines are in place for innovation to emerge so that patients and providers can benefit from this helpful tool in any care delivery toolbox.

States should allow patients to establish a patient-provider relationship in the method that they feel most comfortable with, including interactive and asynchronous methods. States need to enable providers to stay in touch across state lines with patients as they are increasingly mobile, and allow providers to practice at the top of their license to take the next step toward a more quality-oriented, affordable, and innovative health system. These steps would remove deleterious barriers that have historically discriminated against those in certain geographies, such as rural communities or underserved urban areas.

This report examines all 50 states on four key areas and highlights states excelling in each.

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State	Modality Neutral	Start Telehealth by Any Mode	No Barriers to Across State Line Telehealth	Independent Practice
AL	🟢	🟢	🔴	🔴
AK	🟡	🔴	🟡	🟢
AZ	🟢	🟢	🟢	🟢
AR	🟢	🔴	🔴	🟡
CA	🟡	🟢	🔴	🟡
CO	🟢	🟢	🔴	🟡
CT	🟢	🟢	🔴	🟡
DE	🟢	🟢	🔴	🟢
FL	🟢	🟢	🟢	🟢
GA	🟢	🟢	🟡	🔴
HI	🟢	🟢	🔴	🟢
ID	🟢	🔴	🔴	🟢
IL	🟢	🟢	🔴	🔴
IN	🟢	🟢	🟢	🔴
IA	🔴	🟢	🔴	🟢
KS	🟡	🔴	🟡	🔴
KY	🟢	🟢	🔴	🔴
LA	🟢	🟡	🟡	🔴
ME	🟢	🟢	🔴	🟡
MD	🟢	🟢	🟡	🟡
MA	🟢	🟢	🔴	🟢
MI	🟡	🟢	🔴	🔴
MN	🟢	🟢	🟡	🟡
MS	🟢	🟡	🔴	🔴
MO	🟡	🟢	🔴	🔴
MT	🟡	🟢	🔴	🟢
NE	🟢	🟢	🔴	🟡
NV	🟡	🟢	🟡	🟢
NH	🟢	🔴	🔴	🟢
NJ	🟡	🟡	🔴	🟢
NM	🟢	🔴	🟡	🟢
NY	🟡	🟢	🔴	🔴
NC	N/A	🟢	🔴	🔴
ND	🟡	🟡	🔴	🟢
OH	🟡	🟢	🔴	🔴
OK	🟢	🟢	🟡	🔴
OR	🟡	🟡	🟡	🟢
PA	N/A	🟢	🔴	🔴
RI	🟢	🟡	🔴	🟢
SC	🟡	🟡	🔴	🔴
SD	🟢	🟢	🟡	🟡
TN	🟡	🟢	🔴	🔴
TX	🟡	🟢	🔴	🔴
UT	🟢	🟡	🟡	🟢
VT	🔴	🟡	🔴	🟡
VA	🟢	🟡	🔴	🟡
WA	🟡	🟢	🔴	🟢
WV	🟢	🟡	🟡	🟢
WI	🟡	🟢	🔴	🔴
WY	🟡	🟢	🔴	🟢

Modality Neutral

A quality-oriented, provider and patient-centered health system means allowing for many kinds of telehealth, not just live video. For this category, the report will largely follow the term as defined by the American Telemedicine Association (ATA) which points to a "modality-neutral" definition of telehealth including various methods whether asynchronous or synchronous, and various technologies whether by audio-video, store and forward, or remote patient monitoring.

"Telehealth" means a mode of delivering health care services using telecommunication technologies, including but not limited to asynchronous and synchronous technology, and remote patient monitoring technology, by a health care practitioner to a patient or a practitioner at a different physical location than the health care practitioner.

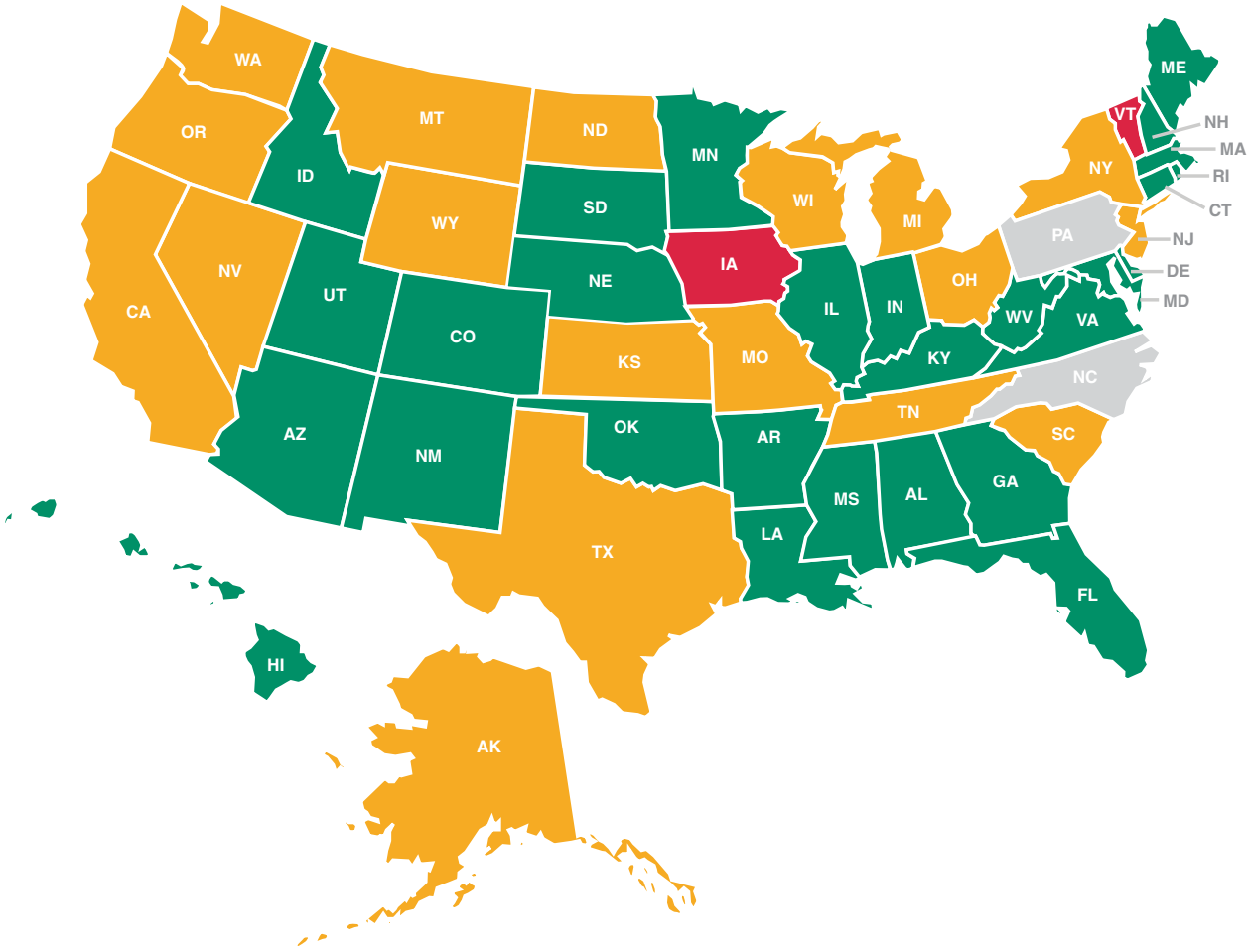
Remote patient monitoring refers to the transmission and monitoring of personal health data (including vital signs, weight, blood pressure, blood sugar, blood oxygen levels, heart rate, and electrocardiograms) via electronic communication technologies. Remote patient monitoring allows providers to track a patient's health data outside of a facility. This is beneficial for preventing readmissions and allowing older adults and individuals with disabilities to live at home and avoid admission into a skilled nursing facility.

Store-and-forward refers to the electronic transmission of digital medical information including pre-recorded video or images (such as X-rays, MRIs, or photos of skin conditions). Store-and-forward transfers are particularly useful for consultations with specialists who can review medical information after it has been collected and uploaded. This provides patients access to specialty care promptly without the need for coordinating schedules and lengthy travel.

STATE HIGHLIGHT: CONNECTICUT

In May 2021, Connecticut lawmakers enacted HB 5590 which alters several of the state's telehealth policies until June 30, 2023. The definition of telehealth included in the legislation is modality neutral and includes synchronous and asynchronous modalities. The definition explicitly mentions remote patient monitoring and store-and-forward technologies. There is no requirement that telehealth providers must have a prior in-person interaction with a patient.

STATE LAWS ON ALLOWING MANY METHODS FOR PATIENTS TO ACCESS TELEHEALTH



- **Green:** Allows synchronous and asynchronous explicitly or has a broad enough definition for their use. The state law also mentions store-and-forward and remote patient monitoring.
- **Yellow:** Allows synchronous and asynchronous explicitly or has a broad enough definition to allow its use.
- **Red:** Limits the use of at least one kind of modality.

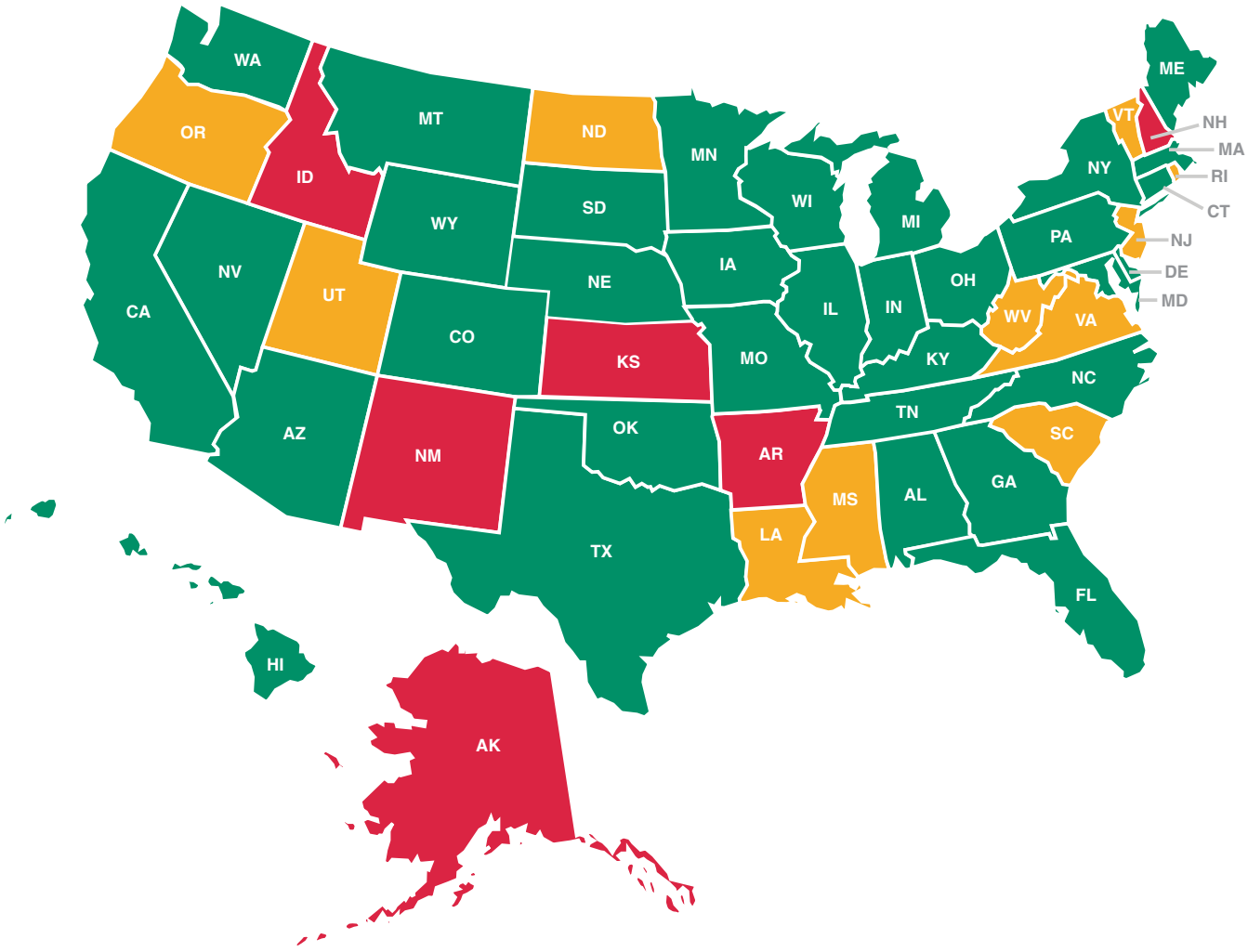
Start Telehealth by Any Mode

Every patient has a different preference for how to interact with a telehealth provider. As a result, allowing for the relationship to be initiated through the patient's preferred modality is imperative. Imagine someone experiencing a behavioral health crisis in the middle of the night. They might strongly prefer to start communication by text or in an asynchronous manner before being comfortable switching to a video call or in-person visit. Or imagine a busy patient who just needs to follow up on an already-prescribed drug. Getting it refilled can be much more efficiently handled through an asynchronous interaction which prevents them from having to miss work and frees up a provider's time to see a sick patient. If the health system is going to be more patient-centered, accessible, and avoid wasting money-- then state laws need to ensure these better methods to deliver care are available. Some states allow for the use of both synchronous and asynchronous modalities (as highlighted in the map above) but may limit the modalities that can be used to start the relationship, which is what is being ranked here. Laws and board regulations should remove barriers that get in the way of jump-starting a telehealth relationship.

STATE HIGHLIGHT: MARYLAND

Maryland's telehealth statutes allow a patient-provider relationship to be established through synchronous and asynchronous modalities. In fact, state law explicitly prohibits occupational boards from adopting rules that would limit this flexibility. Regulations adopted by occupational boards "[s]hall allow for the establishment of a practitioner-patient relationship through a synchronous telehealth interaction or an asynchronous telehealth interaction provided by a health care practitioner who is complying with the health care practitioner's standard of care" (Maryland Health Occupations Code Sec. 1–1006). Codifying this requirement in statute ensures that patients will continue to have the ability to establish a telehealth relationship through the modality of their choice.

STATE LAWS ON PATIENTS STARTING A RELATIONSHIP BY ANY MODE OF TELEHEALTH



- **Green:** Patients can start a telehealth relationship using the modality of their choice.
- **Yellow:** Law or regulations suggest a standard of care that would not allow starting a telehealth relationship over an asynchronous mode.
- **Red:** Law or regulations specifically restrict a certain modality for starting a telehealth relationship over an asynchronous mode.

No Barriers for Patients to Across State Line Telehealth

Allowing patients to access providers outside their community is imperative as most cities and towns simply lack certain kinds of providers.[1] Telehealth may be their only option for seeing a specialist, to get a second opinion or access team-based care. Allowing across-state-line telehealth ends geographic and economic discrimination for many patients and allows access to providers who would not otherwise be accessible by distance or expense of travel.[2]

Too many states and medical boards have made it time-consuming, expensive, or prohibited providers from seeing patients outside their home state. Pilots don't lose their skills when they cross a state line, and neither do health care professionals. As more Americans are mobile, being able to stay in touch with providers who know the patient's history and have their trust is imperative to better health outcomes.

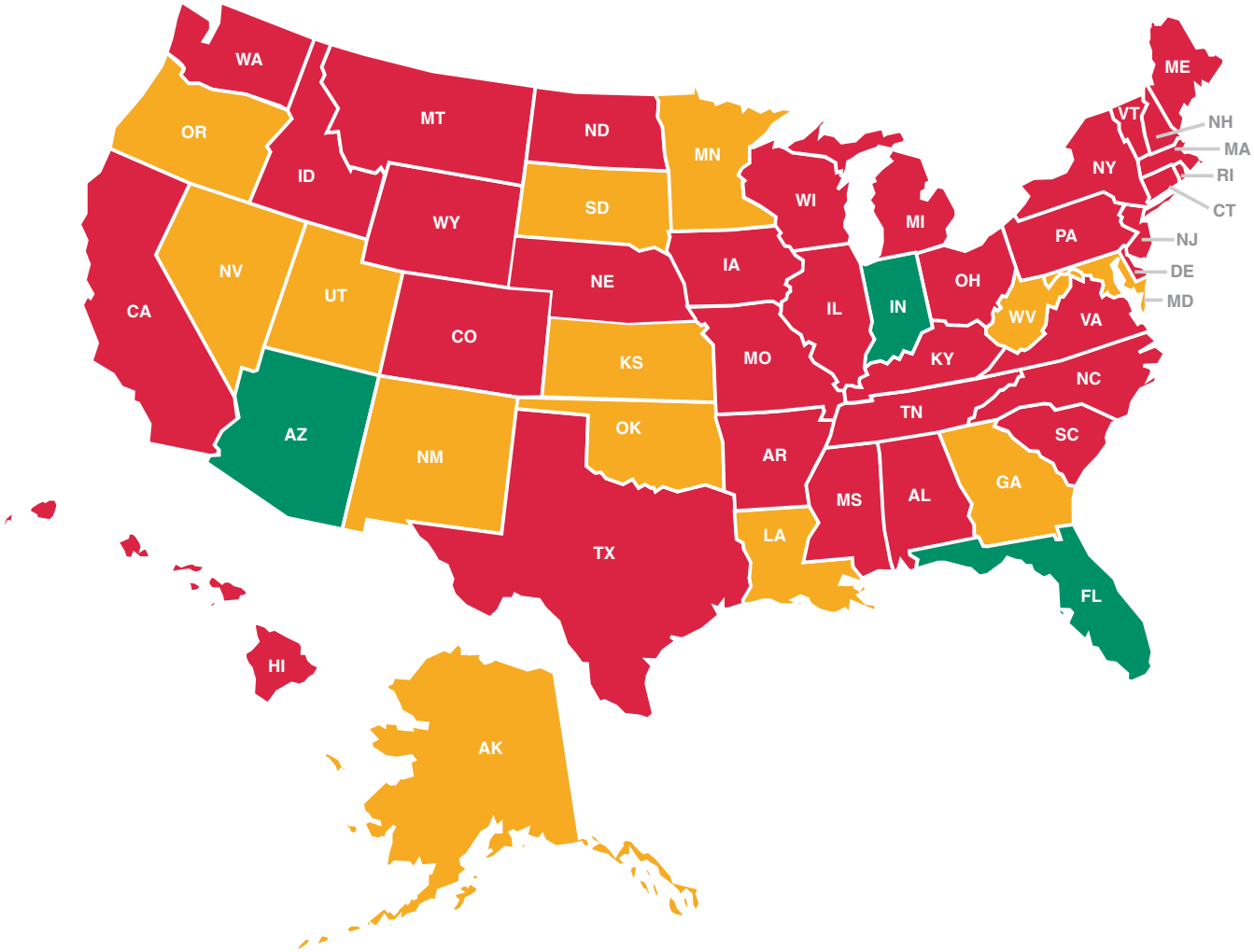
This category highlights states that allow providers in good standing to see patients in another state without jumping through expensive time-consuming hoops—and not just for a consultation with another provider or during an emergency. States that earned a positive ranking often allowed providers to register to see new patients. Anything over and above these requirements are barriers to the provider-patient relationship, and many of the provider compacts being pushed have severe limitations.

Imagine that a family member gets sick and the nation's leading expert on treating the illness works at the Cleveland Clinic in Ohio, where you don't live. You could not see this specialist unless you convinced the provider to go through the time and expense of obtaining a full medical license in your state. If you are wealthy, you could travel to Ohio and pay out of pocket for the services. Middle-class and low-income residents have no such option. This is discrimination by geography and economic status. Telehealth reform is a market-based equalizer.

STATE HIGHLIGHT: ARIZONA

The Arizona Legislature passed sweeping telehealth reforms in 2021 (HB 2454 (2021)). The legislation included the creation of a registration process for out-of-state providers to practice telehealth in Arizona. In most other states, a provider would need to obtain an additional license from each state in which they want to provide telehealth services, even if they are already licensed in another state. Arizona's registration process is less burdensome than applying for a full license and makes it significantly easier for patients in Arizona to access care from providers in other states. Only two other states––Florida and Indiana––have similar policies for out-of-state providers.

STATE LAWS THAT DON'T REQUIRE SICK PATIENTS TO TRAVEL TO ACCESS PROVIDERS IN ANOTHER STATE



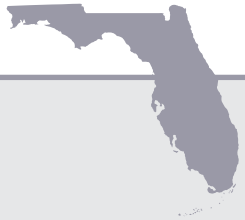
- **Green:** Clear, straightforward, predictable registration or licensing process for all out-of-state health care providers to see patients across state lines.
- **Yellow:** Has a clear, straightforward, predictable registration or licensing process but it only applies to physicians, or certain kinds of providers, or only for surrounding states.
- **Red:** There are clear barriers to across-state-line telehealth, or there is not an option for a clear pathway to do so.

Independent Practice

The report rates each state based on whether NPs are allowed to practice in the way they have been trained, or if the state still requires a doctor to provide oversight or co-sign their work.

The country has an acute shortage of doctors that is projected to grow to up to 124,000 by 2034.[3] Expanding the supply of health care professionals with high-quality nurse practitioners (NPs) is not only a nice option to have for patients during a pandemic, but a necessity. It also allows doctors to focus on the most complex and sick patients. Ample research has shown that expanding NPs' scope of practice increases access to care and reduces costs without compromising quality.[4] Absent reform, many patients may be forced to go without care.

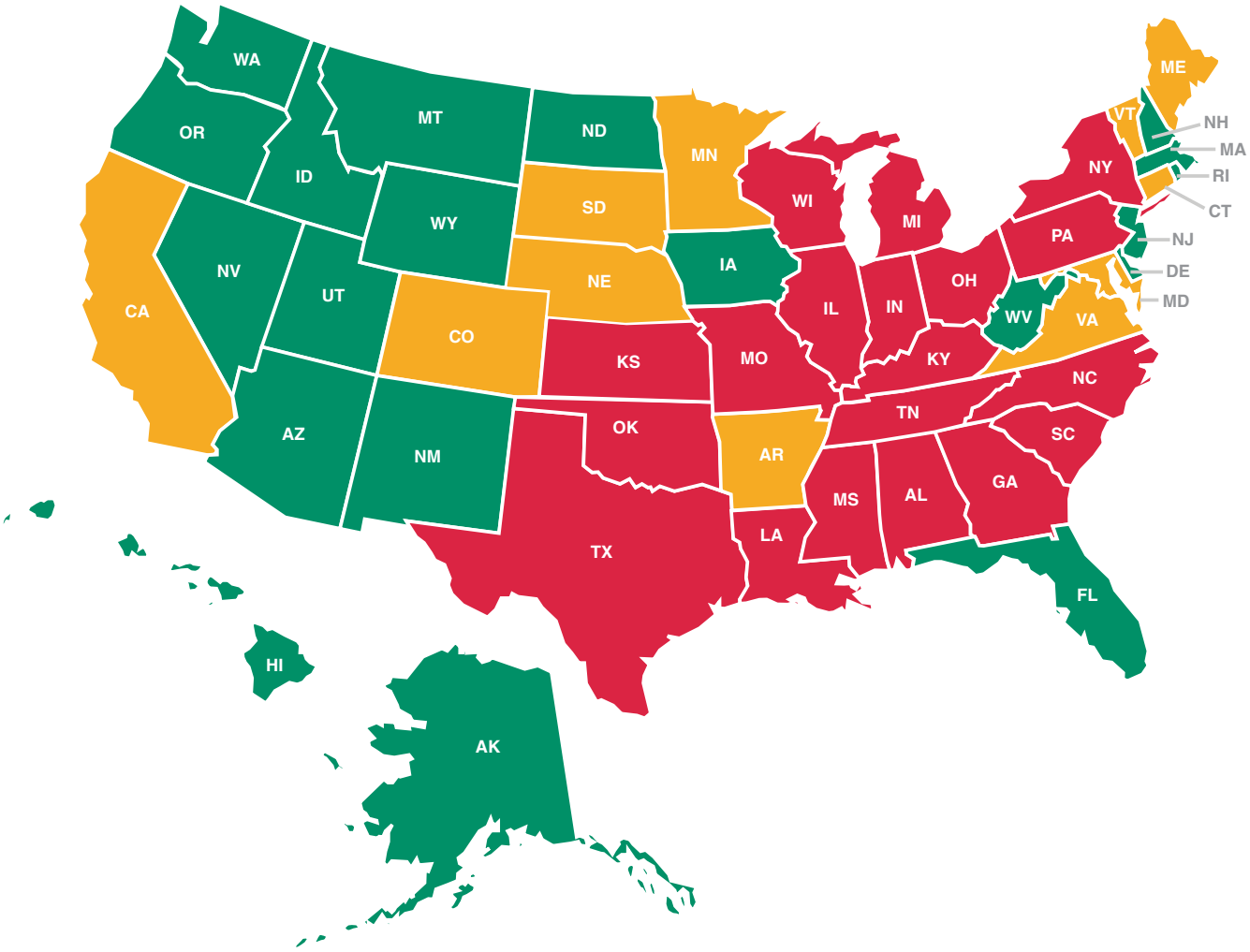
It is important to acknowledge that expanding the scope of practice for pharmacists, physician assistants, dentists, and other medical providers can also be important as well. Because of the impact of NPs being allowed to practice independently on patient access, this was the focus of the report.



STATE HIGHLIGHT: **FLORIDA**

In 2020, Florida passed legislation allowing nurse practitioners to practice autonomously without the supervision of a physician (HB 607 (2020)). Nurse practitioners are highly skilled health care professionals trained at the graduate level. Some states require nurse practitioners to work under "collaborative practice agreements" with supervising physicians, but Florida and a growing number of states allow independent practice. Autonomous nurse practitioners in Florida are still limited by their scope of practice and may need to work with a physician to prescribe some medications.

STATE LAW ON HAVING MORE PROVIDER OPTIONS



- **Green:** Nurse practitioners (NPs) can practice independently without a collaborative practice agreement or supervision from a physician to provide medical services.
- **Yellow:** NPs can practice independently after a certain period of time, or they have some collaboration or supervision requirement for at least one or more medical services, not including for prescribing.
- **Red:** An NP can never practice independently without a collaborative practice agreement or supervision.

Authors

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2. See for example: James P. Marcin, Ulfat Shaikh, and Robin H. Steinhorn, "Addressing Health Disparities in Rural Communities Using Telehealth," Pediatric Research 79 (2016). 169–176. https://doi.org/10.1038/pr.2015.192; and "Telehealth Models for Increasing Access to Specialty Care," Rural Health Information Hub, https://www.ruralhealthinfo.org/toolkits/telehealth/2/care-delivery/specialty-care (accessed 9 Dec. 2021).
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4. Vittorio Nastasi "Removing Restrictions of Nurse Practitioners Could Expand Access to Health Care," Reason Foundation, 8 Oct. 2020. https://reason.org/commentary/removing-restrictions-of-nurse-practitioners-could-expand-access-to-health-care/.

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