SPONSOR: Rep. Bentz & Sen. Townsend
Rep. Seigfried; Sen. Lopez

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE SUBSTITUTE NO. 1
FOR
HOUSE BILL NO. 348
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLES 18 AND 24 OF THE DELAWARE CODE RELATING TO TELEMEDICINE SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. The General Assembly finds and declares all of the following:

(1) On March 12, 2020 Governor John C. Carney declared a State of Emergency effective as of March 13, 2020 due to the serious public health threat created by the novel coronavirus, "Covid-19."

(2) On March 18, 2020 Governor John C. Carney issued the Second Modification of the March 12, 2020 Declaration of a State of Emergency due to a Public Health Threat which, among other things, suspended all Title 24 statutory requirements that patients present in-person before telemedicine services may be provided so long as the patient is a Delaware resident and directed that any out of state health care provider holding an active license in another jurisdiction who would be permitted to provide telemedicine services in Delaware if licensed under Title 24 may provide telemedicine services to a Delaware resident. The March 18, 2020 Second Modification also suspended the Delaware Board of Medical Licensure and Discipline Regulation 19 regarding the use of telemedicine.

(3) On March 24, 2020 a Joint Order of the Department of Health and Social Services and the Delaware Emergency Management Agency was issued which authorized in Paragraph 1: "Out of state health care providers, including physicians, pharmacists, respiratory therapists, physician assistants, paramedics, emergency medical technicians, practical nurses, advanced practice registered nurses, and nursing assistants with an active license or certification in good standing in any United States jurisdiction" to provide healthcare services in Delaware." In Paragraph 2, the Joint Order authorized "[a]ll out of state mental health providers with an active license in good standing in any United States jurisdiction, including psychologists, mental health counselors, clinical social workers, chemical dependency counselors and marriage and family therapists" to provide in-person and telemedicine health services in Delaware.

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(4) On March 30, 2020 Governor John C. Carney issued the Eighth Modification of the March 12, 2020 Declaration of a State of Emergency due to a Public Health Threat which stated: "4. a. To the extent not suspended by the Second Modification of the Declaration of a State of Emergency, all regulations requiring any in-person contact before or during telemedicine services by any medical professional are hereby suspended."

(5) On April 6, 2020 Governor John C. Carney issued the Tenth Modification of the March 12, 2020 Declaration of a State of Emergency due to a Public Health Threat which stated: "6. INSURANCE: Pursuant to the authority provided in 20 Del. C. §3116(a)(2), requirements for the provision of telemedicine and telehealth under Title 24 of the Delaware Code that require both audio and visual technology are suspended, which will allow the use of non-smart phone or landline connections."

(6) The interest of Delawareans will be served by ensuring that the provisions in the Declaration of the State of Emergency, as modified, pertaining to authorizing telemedicine without a pre-existing provider-patient relationship and through the use of land-lines and other technology which does not have a video component, as well as permitting out-of-state mental health practitioners to practice in Delaware subject to Division of Professional Regulation oversight are maintained to facilitate the delivery of health care services during and in the aftermath of the serious public health threat occasioned by COVID-19.

Section 2. Amend Chapter 33 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 33. Health Insurance Contracts

§ 3370. Telemedicine.

(a) As used in this section:

(1) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(2) "Originating site" means a site in Delaware <u>or outside of Delaware if the patient is a Delaware resident</u> at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(4) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation,

patient and professional health-related education, public health, health administration, and other services as described in regulation~~,~~ which may not require the use of technology permitting visual communication.

(5) "Telemedicine" means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a health care provider practicing within his or her scope of practice as would be practiced in-person with a patient, and legally allowed to practice in the state, or other jurisdiction when treating a Delaware resident, while such patient is at an originating site and the health care provider is at a distant site.

Section 3. Amend Chapter 35 of Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 35. Group and Blanket Health Insurance.

§ 3571R. Telemedicine.

(a) As used in this section:

(1) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(2) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(4) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation~~.~~ which may not require the use of technology permitting visual communication.

(5) "Telemedicine" means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a health care provider practicing within his or her scope of practice as would

be practiced in-person with a patient, and legally allowed to practice in the state, while such patient is at an originating site and the health care provider is at a distant site.

(b) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine.

(c) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telehealth as directed through regulations promulgated by the Department~~.~~ which may not require the use of technology permitting visual communication.

Section 4. Amend Chapter 17, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 17. Medical Practice Act

Subchapter I. General Provisions.

§1702 Definitions [Effective until Jan. 1, 2021].

The following definitions apply to this chapter unless otherwise expressly stated or implied by the context:

(4) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine.

(10) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(16) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in ~~regulation.~~ regulation, which may not require the use of technology permitting visual communication.

(17) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a health care provider practicing within his or her scope of practice as would be practiced in-person with a patient, legally allowed to practice in the state while such patient is at an originating site and the health care provider is at a distant site.

§1702 Definitions [Effective Jan. 1, 2021].

The following definitions apply to this chapter unless otherwise expressly stated or implied by the context:

(4) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine.

(11) “Originating site” means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(17) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in ~~regulation.~~ regulation, which may not require the use of technology permitting visual communication.

(18) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a health care provider practicing within his or her scope of practice as would be practiced in-person with a patient, legally allowed to practice in the state while such patient is at an originating site and the health care provider is at a distant site.

§ 1769D. Telemedicine and Telehealth.

(c) Treatment and consultation recommendations made in an online setting or through audio only communication, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (encounter in person) settings.

(g) Prescriptions, including for opioids, made through telemedicine and under a physician-patient relationship may include controlled ~~substances, subject to limitations as set by the Board~~ substances. Prescribing controlled substances utilizing telemedicine is subject to the same standard of care and requisite practice as prescribing for in-person visits.

(k) Telemedicine may be practiced without a physician-patient relationship during:

(1) Informal consultation performed by a physician outside the context of a contractual relationship and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;

(2) Furnishing of medical assistance by a physician in case of an emergency or disaster if no charge is made for the medical assistance; ~~or~~

(3) Episodic consultation by a medical specialist located in another jurisdiction who provides such consultation services on request to a licensed health care professional.

(4) Circumstances which make it impractical for a patient to consult with a physician in-person prior to the delivery of telemedicine services.

Section 5. Amend Chapter 5, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 5. Podiatry

Subchapter I. Board of Podiatry.

§ 502 Definitions [Effective until Jan. 1, 2021]

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(3) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(10) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(11) "Practice of podiatry" shall mean the diagnosis and the medical, surgical, mechanical, manipulative and electrical treatment of all ailments of the foot and ankle. As appropriate in regulation, these services may be performed with the use of Telemedicine. Podiatry may also include participation in Telehealth, as further defined in regulation. Telemedicine or Telehealth regulations may not require the use of technology permitting visual communication. Amputation of the foot shall be restricted to state licensed podiatrists who have completed an American Podiatric Medical Association accredited surgical residency program acceptable to the Board and have current amputation privileges, or have fulfilled the credentialing criteria of the surgical committee of the Joint Committee on Accreditation of Hospitals accredited hospital where the amputation is to be performed.

(17) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication.

(18) "Telemedicine" means the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication.

§ 502 Definitions [Effective Jan. 1, 2021]

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(3) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(11) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(13) "Practice of podiatry" shall mean the diagnosis and the medical, surgical, mechanical, manipulative and electrical treatment of all ailments of the foot and ankle. As appropriate in regulation, these services may be performed with the use of Telemedicine. Podiatry may also include participation in Telehealth, as further defined in regulation. Telemedicine or Telehealth regulations may not require the use of technology permitting visual communication. Amputation of the foot shall be restricted to state licensed podiatrists who have completed an American Podiatric Medical Association accredited surgical residency program acceptable to the Board and have current amputation privileges, or have fulfilled the credentialing criteria of the surgical committee of the Joint Committee on Accreditation of Hospitals accredited hospital where the amputation is to be performed.

(18) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. ~~-~~which may not require the use of technology permitting visual communication.

(19) "Telemedicine" means the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in ~~regulation.~~ regulation, which may not require the use of technology permitting visual communication.

Section 6. Amend Chapter 7, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 7. Board of Chiropractic.

§ 701 Chiropractic defined; limitation of chiropractic license.

(a)(1) "Chiropractic" means a drugless system of health care based on the principle that interference with the transmission of nerve impulses may cause disease.

(2) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(3) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however,

notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(5) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in ~~regulation.~~ regulation, which may not require the use of technology permitting visual communication.

(6) "Telemedicine" means a form of telehealth which the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation~~.~~ which may not require the use of technology requiring visual communication.

(b) The practice of chiropractic includes, but is not limited to, the diagnosing and locating of misaligned or displaced vertebrae (subluxation complex), using x-rays and other diagnostic test procedures. The practice includes the use of telemedicine and may also include the practice of and participation in Telehealth, as further defined in regulation~~.~~ which may not require the use of technology requiring visual communication. Practice of chiropractic includes the treatment through manipulation/adjustment of the spine and other skeletal structures and the use of adjunctive procedures not otherwise prohibited by this chapter.

Section 7. Amend Chapter 11, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 11. Dentistry and Dental Hygiene

Subchapter I. State Board of Dentistry and Dental Hygiene

§ 1101 Definitions [Effective until Jan. 1, 2021].

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(8) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(11) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or

telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(13) "Practice of dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of the dentist's education, training and experience, in accordance with the ethics of the profession and applicable law. The practice includes the use of Telemedicine and may also include participation in Telehealth as further defined in regulation. which may not require the use of technology permitting visual communication. A person shall be construed to practice dentistry who by verbal claim, sign, advertisement, opening of an office, or in any other way, including use of the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or titles, represents the person to be a dentist or who holds himself or herself out as able to perform, or who does perform, dental services or work. A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place for performing dental operations or who for a fee, salary or other reward paid, or to be paid either to himself or herself or to another person, performs or advertises to perform dental operations of any kind.

(18) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication.

(19) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication.

§1101 Definitions [Effective Jan. 1, 2021].

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(8) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(12) “Originating site” means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(15) "Practice of dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of the dentist's education, training and experience, in accordance with the ethics of the profession and applicable law. The practice includes the use of Telemedicine and may also include participation in Telehealth as further defined in regulation. which may not require the use of technology permitting visual communication. A person shall be construed to practice dentistry who by verbal claim, sign, advertisement, opening of an office, or in any other way, including use of the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or titles, represents the person to be a dentist or who holds himself or herself out as able to perform, or who does perform, dental services or work. A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place for performing dental operations or who for a fee, salary or other reward paid, or to be paid either to himself or herself or to another person, performs or advertises to perform dental operations of any kind.

(19) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication.

(20) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication.

Section 8. Chapter 19, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 19. Nursing

§ 1902 Definitions [Effective until January 1, 2021].

(i) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(s) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(w) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication.

(x) "Telemedicine" means the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication.

(y) "The practice of practical nursing" as a licensed practical nurse means the performance for compensation of nursing services by a person who holds a valid license pursuant to the terms of this chapter and who bears accountability for nursing practices which require basic knowledge of physical, social and nursing sciences. These services, at the direction of a registered nurse or a person licensed to practice medicine, surgery or dentistry, include:

(8) The use of Telemedicine, as defined in this Chapter, and practice of and participation in Telehealth as further defined in regulation. which may not require the use of technology permitting visual communication.

(z) "The practice of professional nursing" as a registered nurse means the performance of professional nursing services by a person who holds a valid license pursuant to the terms of this chapter, and who bears primary responsibility and accountability for nursing practices based on specialized knowledge, judgment and skill derived from the principles of

biological, physical and behavioral sciences. The registered nurse practices in the profession of nursing by the performance of activities, among which are:

(8) The use of telemedicine, as defined in this Chapter, and participation in Telehealth, as further defined in regulation~~.~~ which may not require the use of technology permitting visual communication.

§ 1902 Definitions [Effective January 1, 2021].

(i) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(t) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(x) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation~~.~~ which may not require the use of technology permitting visual communication.

(y) "Telemedicine" means the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation~~.~~ which may not require the use of technology permitting visual communication.

(z) "The practice of practical nursing" as a licensed practical nurse means the performance for compensation of nursing services by a person who holds a valid license pursuant to the terms of this chapter and who bears accountability for nursing practices which require basic knowledge of physical, social and nursing sciences. These services, at the direction of a registered nurse or a person licensed to practice medicine, surgery or dentistry, include:

(8) The use of Telemedicine, as defined in this Chapter, and practice of and participation in Telehealth as further defined in regulation~~.~~ which may not require the use of technology permitting visual communication.

(aa) "The practice of professional nursing" as a registered nurse means the performance of professional nursing services by a person who holds a valid license pursuant to the terms of this chapter, and who bears primary responsibility

and accountability for nursing practices based on specialized knowledge, judgment and skill derived from the principles of biological, physical and behavioral sciences. The registered nurse practices in the profession of nursing by the performance of activities, among which are:

(8) The use of telemedicine, as defined in this Chapter, and participation in Telehealth, as further defined in regulation. which may not require the use of technology permitting visual communication.

§1933. Telemedicine

(a) Telemedicine shall not be utilized by an APRN with respect to any patient in the absence of an APRN-patient relationship. except under circumstances which make it impractical for a patient to consult with the APRN in-person prior to the delivery of telemedicine services.

(c) Treatment and consultation recommendations made in an online setting, or through audio only communication, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (encounter in person) settings.

(g) Prescriptions made through telemedicine, including for opioids, and under an APRN-patient relationship may include controlled substances, subject to limitations as set by the Board.

Section 9. Amend Chapter 20, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 20. Occupational Therapy.

Subchapter I. Board of Occupational Therapy Practice.

§ 2002 Definitions.

As used in this chapter:

(3) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(9)a. "Occupational therapy services includes any of the following:

c. "Occupational therapy services" or "practice of occupational therapy" may be provided through the use of Telemedicine in a manner deemed appropriate by regulation and may include participation in Telehealth as further defined in regulation. Telemedicine or Telehealth regulations may not require the use of technology permitting visual communications.

(10) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however,

notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(16) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication.

(17) "Telemedicine" means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication.

Section 10. Amend Chapter 21, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 21. Optometry.

§2101 Definition of practice of optometry.

(e) The practice of optometry also includes services provided by Telemedicine and participation in Telehealth. For the purposes of this section, "Telehealth" is defined as the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication. "Telemedicine" means a form of Telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication. "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth. "Originating site" means a site in Delaware or outside of Delaware if the patient is a

Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties. "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

Section 11. Amend Chapter 25, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 25. Pharmacy

Subchapter I. Objectives; Definitions; Board of Pharmacy

§ 2502 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(6) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(17) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(23) "Practice of pharmacy" means the interpreting, evaluating, and dispensing of a practitioner's or prescriber's order. The practice of pharmacy includes, but is not limited to, the proper compounding, labeling, packaging, and dispensing of a drug to a patient or the patient's agent, and administering a drug to a patient. The practice of pharmacy includes the application of the pharmacist's knowledge of pharmaceutics, pharmacology, pharmacokinetics, drug and food interactions, drug product selection, and patient counseling. It also includes:

g. The use of Telemedicine and participation in Telehealth in a manner deemed appropriate by regulation, which may not require the use of technology permitting visual communication; and

(33) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation,

patient and professional health-related education, public health, health administration, and other services as described in regulation. ~~–~~ which may not require the use of technology permitting visual communication.

(34) "Telemedicine" means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. ~~–~~ which may not require the use of technology permitting visual communication.

Section 12. Amend Chapter 30, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 30. Mental Health and Chemical Dependency Professionals.

Subchapter I. Board of Mental Health and Chemical Dependency Professionals.

§ 3002 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(3) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if licensed under this title is located while providing health care services by means of telemedicine or telehealth. The Division of Professional Regulation shall require any out-of-state health care provider practicing in the State of Delaware to complete a Medical Request Form as well as comply with any other registration requirements the Division of Professional Regulation may establish.

(6) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(10) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation,

patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication.

(11) "Telemedicine" means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication.

Subchapter III. Chemical Dependency Professionals

§3041 Definitions.

As used in this subchapter:

(1) "Chemical dependency professional" is a person who uses addiction counseling methods to assist an individual or group to develop an understanding of alcohol and drug dependency problems, define goals, and plan action reflecting the individual's or group's interest, abilities and needs as affected by addiction problems. Such services may be provided through the use of Telemedicine in a manner deemed appropriate by regulation. Services also may include participation in Telehealth as further defined in regulation. Telemedicine and Telehealth regulations may not require the use of technology permitting visual communication.

Section 13. Amend Chapter 35, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 35. Psychology

Subchapter I. Board of Examiners of Psychologists

§ 3502 Definitions.

The following words, terms and phrases, when used in this chapter shall have the meanings ascribed to them under this section, except where the context clearly indicates a different meaning:

(3) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if licensed under this title is located while providing health care services by means of telemedicine or telehealth. The Division of Professional Regulation shall require any out-of-state health care provider practicing in the State of

Delaware to complete a Medical Request Form as well as comply with any other registration requirements the Division of Professional Regulation may establish.

(5) “Originating site” means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(7) "Practice of psychology" shall mean the observation, description, evaluation, interpretation and/or modification of human behavior by the application of psychological principles, methods, and/or procedures, for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior, and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health.

The practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes and neuropsychological function; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, organizations, institutions and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether or not payment is received for services rendered.

The practice of psychology may be provided through the use of Telemedicine in a manner deemed appropriate by Regulation. Services also may include participation in Telehealth as further defined in regulation. Telemedicine and Telehealth regulations may not require the use of technology permitting visual communication.

(14) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication.

(15) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-

management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication.

Section 14. Amend Chapter 38, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 38. Dietitian/Nutritionist Licensure Act

§ 3802 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

(2) "Dietetic and nutrition therapy" shall mean the scope of services utilized in the delivery of preventive nutrition services and/or nutrition therapy. It involves an assessment of the individual's specific nutritional needs and the development and implementation of an intervention plan. The intervention plan can include nutrition education, counseling, administration and monitoring of specialized nutrition support and/or referrals for additional services. This application and practice of "dietetic and nutrition therapy" shall include the following Scope of Practice:

Scope of Practice:

(i) The use of Telemedicine in a manner deemed appropriate by regulation. This also may include participation in Telehealth as further defined in regulation. Telemedicine and Telehealth regulations may not require the use of technology permitting visual communication.

(5) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(9) "Originating site" means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(12) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication.

(13) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication.

Section 15. Amend Chapter 39, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

Chapter 39. Board of Social Work Examiners

§ 3902 Definitions.

As used in this chapter:

(13) “Distant site” means a site at which a health care provider legally allowed to practice in the state or at which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if licensed under this title is located while providing health care services by means of telemedicine or telehealth. The Division of Professional Regulation shall require any out-of-state health care provider practicing in the State of Delaware to complete a Medical Request Form as well as comply with any other registration requirements the Division of Professional Regulation may establish.

(23) “Originating site” means a site in Delaware or outside of Delaware if the patient is a Delaware resident at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(30) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. which may not require the use of technology permitting visual communication.

(31) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare

delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. which may not require the use of technology permitting visual communication.

§ 3920 Telehealth and Telemedicine.

(a) Licensed clinical social work may be provided through the use of telemedicine as permitted by regulation, and may include participation in telehealth as further defined by this chapter and by regulation. No telemedicine or telehealth regulations may require the use of technology permitting visual communication.

Section 16. This act expires on July 1, 2021.