

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 3

AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 12-7-2-190.3, AS ADDED BY P.L.204-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 190.3. (a) **"Telehealth activities", for purposes of IC 12-15-5-11, has the meaning set forth in IC 12-15-5-11(a).**

(b) "Telehealth services", for purposes of IC 12-15-5-11, has the meaning set forth in ~~IC 12-15-5-11(a)~~: **IC 12-15-5-11(b).**

SECTION 2. IC 12-7-2-190.4 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 190.4. "Telemedicine services", for purposes of IC 12-15-5-11, has the meaning set forth in IC 12-15-5-11(b).~~

SECTION 3. IC 12-15-5-11, AS AMENDED BY P.L.150-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "telehealth ~~services~~ **activities**" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across a distance.

(b) As used in this section, ~~"telemedicine "~~**"telehealth services"** has the meaning set forth for ~~"telemedicine"~~ **"telehealth"** in IC 25-1-9.5-6.

(c) The office shall reimburse a Medicaid provider who is licensed as a home health agency under IC 16-27-1 for telehealth ~~services~~.

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activities.

(d) The office shall reimburse the following Medicaid providers for medically necessary ~~telemedicine~~ **telehealth** services:

- (1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).
- (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
- (3) A community mental health center certified under IC 12-21-2-3(5)(C).
- (4) A critical access hospital that meets the criteria under 42 CFR 485.601 et seq.
- (5) A provider, as determined by the office to be eligible, providing a covered ~~telemedicine~~ **telehealth** service.

(e) The office may not impose any distance restrictions on providers of telehealth ~~services activities~~ or ~~telemedicine~~ **telehealth** services.

Before December 31, 2017, the office shall do the following:

- (1) Submit a Medicaid state plan amendment with the United States Department of Health and Human Services that eliminates distance restrictions for telehealth ~~services activities~~ or ~~telemedicine~~ **telehealth** services in the state Medicaid plan.
- (2) Issue a notice of intent to adopt a rule to amend any administrative rules that include distance restrictions for the provision of telehealth ~~services activities~~ or ~~telemedicine~~ **telehealth** services.

(f) Subject to federal law, the office may not impose any location requirements concerning the originating site or distant site in which a telehealth service is provided to a Medicaid recipient.

(g) A Medicaid recipient waives confidentiality of any medical information discussed with the health care provider that is:

- (1) provided during a telehealth visit; and**
- (2) heard by another individual in the vicinity of the Medicaid recipient during a health care service or consultation.**

~~(g)~~ **(h)** The office shall implement any part of this section that is approved by the United States Department of Health and Human Services.

~~(g)~~ **(i)** The office may adopt rules under IC 4-22-2 necessary to implement and administer this section.

SECTION 4. IC 16-18-2-348.5, AS ADDED BY P.L.185-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 348.5. "~~Telemedicine~~", "**Telehealth**", for purposes of **IC 16-34-1** and IC 16-36-1, means a specific method of delivery of services, including medical exams and consultations and behavioral health evaluations and treatment, including those for



substance abuse, using **videoconferencing equipment technology allowed under IC 25-1-9.5-6** to allow a provider to render an examination or other service to a patient at a distant location. **The term does not include the use of the following:**

- (1) **A telephone transmitter for transtelephonic monitoring;**
- (2) **A telephone or any other means of communication for the consultation from one (1) provider to another provider.**

SECTION 5. IC 16-34-1-11 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. Telehealth may not be used to provide any abortion, including the writing or filling of a prescription for any purpose that is intended to result in an abortion.**

SECTION 6. IC 16-36-1-15, AS ADDED BY P.L.185-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A health care provider (as defined in IC 16-18-2-163(a)) may not be required to obtain a separate additional written health care consent for the provision of ~~telemedicine~~ **telehealth** services.

SECTION 7. IC 25-1-2-10, AS ADDED BY P.L.121-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section, "board" means any of the following boards:

- (1) The medical licensing board of Indiana.
- (2) The Indiana state board of nursing.
- (3) The state board of dentistry.
- (4) The behavioral health and human services licensing board.
- (5) The state psychology board.
- (6) The Indiana board of pharmacy.

(b) As used in this section, "license" means:

- (1) an unlimited license, certificate, or registration;
- (2) a limited or probationary license, certificate, or registration;
- (3) a temporary license, certificate, registration, or permit;
- (4) an intern permit; or
- (5) a provisional license;

issued by the board regulating the profession in question.

(c) As used in this section, "practitioner" means an individual who holds a license under any of the following:

- (1) IC 25-14-1.
- (2) IC 25-22.5-5.
- (3) IC 25-23.
- (4) IC 25-23.6.
- (5) IC 25-26.

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(6) IC 25-27.5.

(7) IC 25-33.

(d) To allow for programmatic and policy recommendations to improve workforce performance, address identified workforce shortages, and retain practitioners, beginning January 1, 2019, every practitioner who is renewing online a license issued by a board must include the following information related to the practitioner's work in Indiana under the practitioner's license during the previous two (2) years:

- (1) The practitioner's specialty or field of practice.
 - (2) The following concerning the practitioner's current practice:
 - (A) The location or address.
 - (B) The setting type.
 - (C) The average hours worked weekly.
 - (D) The health care services provided.
 - (3) The practitioner's education background and training.
 - (4) For a practitioner ~~that is a prescriber~~ (as defined in ~~IC 25-1-9.5-4~~; **IC 25-1-9.5-3.5**), whether the practitioner delivers health care services through ~~telemedicine~~ **telehealth** (as defined in IC 25-1-9.5-6).
- (e) The Indiana professional licensing agency shall do the following:
- (1) Include notification with a practitioner's license renewal notice that the practitioner must submit the information required under subsection (d) if the practitioner renews the license online.
 - (2) Compile the information collected under this section into an annual report. The report may not contain any personal identifying information and the report must be compliant with the federal Health Insurance Portability and Accountability Act (HIPAA).
 - (3) Post the annual report compiled under this subsection on the agency's Internet web site.
 - (4) Submit the annual report compiled under this subsection to the following:
 - (A) The office of Medicaid policy and planning.
 - (B) The department of workforce development.
 - (C) The commission on improving the status of children in Indiana (IC 2-5-36).
 - (D) The legislative council in an electronic format under IC 5-14-6.
 - (E) The office of the attorney general.

SECTION 8. IC 25-1-9.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: **Sec. 0.5. Telehealth may not be used to provide any abortion, including the writing or filling of a prescription for any purpose that is intended to result in an abortion.**

SECTION 9. IC 25-1-9.5-1, AS AMENDED BY P.L.150-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter does not prohibit a provider, prescriber, insurer, **practitioner**, or patient from agreeing to an alternative location of the patient, provider, **practitioner**, or prescriber to conduct ~~telemedicine~~: **telehealth**.

(b) This chapter does not supersede any other statute concerning a provider or prescriber who provides health care to a patient.

SECTION 10. IC 25-1-9.5-2, AS AMENDED BY P.L.150-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "distant site" means a site at which a ~~prescriber~~ **practitioner** is located while providing health care services through ~~telemedicine~~: **telehealth**.

SECTION 11. IC 25-1-9.5-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. As used in this chapter, "health care services" includes the following:**

- (1) **Assessment, diagnosis, evaluation, consultation, treatment, and monitoring of a patient.**
- (2) **Transfer of medical data.**
- (3) **Patient health related education.**
- (4) **Health administration.**

SECTION 12. IC 25-1-9.5-3, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "originating site" means any site at which a patient is located at the time health care services through ~~telemedicine~~ **telehealth** are provided to the individual.

SECTION 13. IC 25-1-9.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter, "practitioner" means an individual who holds an unlimited license to practice as any of the following in Indiana:**

- (1) **An athletic trainer licensed under IC 25-5.1.**
- (2) **A chiropractor licensed under IC 25-10.**
- (3) **A dental hygienist licensed under IC 25-13.**
- (4) **The following:**
 - (A) **A dentist licensed under IC 25-14.**
 - (B) **An individual who holds a dental residency permit**



issued under IC 25-14-1-5.

(C) An individual who holds a dental faculty license under IC 25-14-1-5.5.

(5) A diabetes educator licensed under IC 25-14.3.

(6) A dietitian licensed under IC 25-14.5.

(7) A genetic counselor licensed under IC 25-17.3.

(8) The following:

(A) A physician licensed under IC 25-22.5.

(B) An individual who holds a temporary permit under IC 25-22.5-5-4.

(9) A nurse licensed under IC 25-23.

(10) An occupational therapist licensed under IC 25-23.5.

(11) Any behavioral health and human services professional licensed under IC 25-23.6.

(12) An optometrist licensed under IC 25-24.

(13) A pharmacist licensed under IC 25-26.

(14) A physical therapist licensed under IC 25-27.

(15) A physician assistant licensed under IC 25-27.5.

(16) A podiatrist licensed under IC 25-29.

(17) A psychologist licensed under IC 25-33.

(18) A respiratory care practitioner licensed under IC 25-34.5.

(19) A speech-language pathologist or audiologist licensed under IC 25-35.6.

(20) A veterinarian licensed under IC 25-38.1.

SECTION 14. IC 25-1-9.5-4, AS AMENDED BY P.L.247-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "prescriber" means any of the following:

(1) A physician licensed under IC 25-22.5.

(2) A physician assistant licensed under IC 25-27.5 and granted the authority to prescribe by the physician assistant's collaborating physician in accordance with IC 25-27.5-5-4.

(3) An advanced practice registered nurse licensed and granted the authority to prescribe drugs under IC 25-23.

(4) An optometrist licensed under IC 25-24.

(5) A podiatrist licensed under IC 25-29.

(6) A dentist licensed under IC 25-14.

(7) A veterinarian licensed under IC 25-38.1.

SECTION 15. IC 25-1-9.5-5, AS AMENDED BY P.L.150-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. As used in this chapter, "store and forward" means the transmission of a patient's medical information from an



originating site to the **prescriber practitioner** at a distant site without the patient being present.

SECTION 16. IC 25-1-9.5-6, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this chapter, "~~telemedicine~~" "**telehealth**" means the delivery of health care services using **interactive** electronic communications and information technology, **in compliance with the federal Health Insurance Portability and Accountability Act (HIPAA)**, including:

- (1) secure videoconferencing;
- (2) ~~interactive audio-using~~ store and forward technology; or
- (3) remote patient monitoring technology;

between a provider in one (1) location and a patient in another location.

(b) The term does not include the use of the following **unless the practitioner has an established relationship with the patient**:

- ~~(1) Audio-only communication.~~
- ~~(2) A telephone call.~~
- ~~(3) (1) Electronic mail.~~
- ~~(4) (2) An instant messaging conversation.~~
- ~~(5) (3) Facsimile.~~
- ~~(6) (4) Internet questionnaire.~~
- ~~(7) Telephone consultation.~~
- ~~(8) (5) Internet consultation.~~

(c) **The term does not include a health care service provided by an employee of a practitioner who is performing a health care service listed in section 2.5(2), 2.5(3), or 2.5(4) of this chapter under the direction of the practitioner.**

SECTION 17. IC 25-1-9.5-7, AS AMENDED BY P.L.129-2018, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A **prescriber practitioner** who:

- (1) provides health care services through ~~telemedicine telehealth~~;
- or
- (2) **directs an employee of the practitioner to perform a health care service listed in section 2.5(2), 2.5(3), or 2.5(4) of this chapter;**

shall be held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting.

(b) ~~A prescriber may not use telemedicine, including issuing a prescription, for an individual who is located in Indiana unless a provider-patient relationship between the prescriber and the individual has been established.~~ A **prescriber practitioner** who uses **telemedicine telehealth** shall, if such action would otherwise be required in the



provision of the same health care services in a manner other than ~~telemedicine~~, **telehealth**, ensure that a proper provider-patient relationship is established. The provider-patient relationship by a **prescriber practitioner** who uses ~~telemedicine~~ **telehealth** must at a minimum include the following:

- (1) Obtain the patient's name and contact information and:
 - (A) a verbal statement or other data from the patient identifying the patient's location; and
 - (B) to the extent reasonably possible, the identity of the requesting patient.
- (2) Disclose the ~~prescriber's~~ **practitioner's** name and disclose ~~whether the prescriber is a physician, physician assistant, advanced practice registered nurse, optometrist, or podiatrist.~~ **the practitioner's licensure, certification, or registration.**
- (3) Obtain informed consent from the patient.
- (4) Obtain the patient's medical history and other information necessary to establish a diagnosis.
- (5) Discuss with the patient the:
 - (A) diagnosis;
 - (B) evidence for the diagnosis; and
 - (C) risks and benefits of various treatment options, including when it is advisable to seek in-person care.
- (6) Create and maintain a medical record for the patient. ~~and;~~ **If a prescription is issued for the patient, and** subject to the consent of the patient, **the prescriber shall** notify the patient's primary care provider of any prescriptions the prescriber has issued for the patient if the primary care provider's contact information is provided by the patient. The requirements in this subdivision do not apply when any of the following are met:
 - (A) The ~~prescriber practitioner~~ is using an electronic health record system that the patient's primary care provider is authorized to access.
 - (B) The ~~prescriber practitioner~~ has established an ongoing provider-patient relationship with the patient by providing care to the patient at least two (2) consecutive times through the use of ~~telemedicine~~ **telehealth** services. If the conditions of this clause are met, the ~~prescriber practitioner~~ shall maintain a medical record for the patient and shall notify the patient's primary care provider of any issued prescriptions.
- (7) Issue proper instructions for appropriate follow-up care.
- (8) Provide a ~~telemedicine~~ **telehealth** visit summary to the patient, including information that indicates any prescription that



is being prescribed.

(c) The medical records under subsection (b)(6) must be created and maintained by the practitioner under the same standards of appropriate practice for medical records for patients in an in-person setting.

(d) A patient waives confidentiality of any medical information discussed with the practitioner that is:

- (1) provided during a telehealth visit; and**
- (2) heard by another individual in the vicinity of the patient during a health care service or consultation.**

(e) An employer may not require a practitioner, by an employment contract, an agreement, a policy, or any other means, to provide a health care service through telehealth if the practitioner believes that providing a health care service through telehealth would:

- (1) negatively impact the patient's health; or**
- (2) result in a lower standard of care than if the health care service was provided in an in-person setting.**

(f) Any applicable contract, employment agreement, or policy to provide telehealth services must explicitly provide that a practitioner may refuse at any time to provide health care services if in the practitioner's sole discretion the practitioner believes:

- (1) that health quality may be negatively impacted; or**
- (2) the practitioner would be unable to provide the same standards of appropriate practice as those provided in an in-person setting.**

SECTION 18. IC 25-1-9.5-8, AS AMENDED BY P.L.52-2020, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A prescriber may issue a prescription to a patient who is receiving services through the use of **telemedicine telehealth** if the patient has not been examined previously by the prescriber in person if the following conditions are met:

- (1) The prescriber has satisfied the applicable standard of care in the treatment of the patient.
- (2) The issuance of the prescription by the prescriber is within the prescriber's scope of practice and certification.
- (3) The prescription:
 - (A) meets the requirements of subsection (b); and
 - (B) is not for an opioid. However, an opioid may be prescribed if the opioid is a partial agonist that is used to treat or manage opioid dependence.
- (4) The prescription is not for an abortion inducing drug (as



defined in IC 16-18-2-1.6).

(5) If the prescription is for a medical device, including an ophthalmic device, the prescriber must use ~~telemedicine~~ **telehealth** technology that is sufficient to allow the provider to make an informed diagnosis and treatment plan that includes the medical device being prescribed. However, a prescription for an ophthalmic device is also subject to the conditions in section 13 of this chapter.

(b) Except as provided in subsection (a), a prescriber may issue a prescription for a controlled substance (as defined in IC 35-48-1-9) to a patient who is receiving services through the use of ~~telemedicine~~; **telehealth**, even if the patient has not been examined previously by the prescriber in person, if the following conditions are met:

(1) The prescriber maintains a valid controlled substance registration under IC 35-48-3.

(2) The prescriber meets the conditions set forth in 21 U.S.C. 829 et seq.

~~(3) The patient has been examined in person by a licensed Indiana health care provider and the licensed health care provider has established a treatment plan to assist the prescriber in the diagnosis of the patient.~~

~~(4) The prescriber has reviewed and approved the treatment plan described in subdivision (3) and is prescribing for the patient pursuant to the treatment plan.~~

(3) A practitioner acting in the usual course of the practitioner's professional practices issues the prescription for a legitimate medical purpose.

(4) The telehealth communication is conducted using an audiovisual, real time, two-way interactive communication system.

(5) The prescriber complies with the requirements of the INSPECT program (IC 25-26-24).

(6) All other applicable federal and state laws are followed.

(c) A prescription for a controlled substance under this section must be prescribed and dispensed in accordance with IC 25-1-9.3 and IC 25-26-24.

SECTION 19. IC 25-1-9.5-9, AS AMENDED BY P.L.150-2017, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A ~~prescriber~~ **practitioner** who is physically located outside Indiana is engaged in the provision of health care services in Indiana when the ~~prescriber~~; **practitioner**:

(1) establishes a provider-patient relationship under this chapter



with; or

(2) determines whether to issue a prescription under this chapter for;

an individual who is located in Indiana.

(b) A **prescriber practitioner** described in subsection (a) may not establish a provider-patient relationship under this chapter with or issue a prescription under this chapter for an individual who is located in Indiana unless the **prescriber practitioner** and the **prescriber's practitioner's** employer or the **prescriber's practitioner's** contractor, for purposes of providing health care services under this chapter, have certified in writing to the Indiana professional licensing agency, in a manner specified by the Indiana professional licensing agency, that the **prescriber practitioner** and the **prescriber's practitioner's** employer or **prescriber's practitioner's** contractor agree to be subject to:

(1) the jurisdiction of the courts of law of Indiana; and

(2) Indiana substantive and procedural laws;

concerning any claim asserted against the **prescriber, practitioner**, the **prescriber's practitioner's** employer, or the **prescriber's practitioner's** contractor arising from the provision of health care services under this chapter to an individual who is located in Indiana at the time the health care services were provided. The filing of the certification under this subsection shall constitute a voluntary waiver by the **prescriber, practitioner**, the **prescriber's practitioner's** employer, or the **prescriber's practitioner's** contractor of any respective right to avail themselves of the jurisdiction or laws other than those specified in this subsection concerning the claim. However, a **prescriber practitioner** that practices predominately in Indiana is not required to file the certification required by this subsection.

(c) A **prescriber practitioner** shall renew the certification required under subsection (b) at the time the **prescriber practitioner** renews the **prescriber's practitioner's** license.

(d) A **prescriber's practitioner's** employer or a **prescriber's practitioner's** contractor is required to file the certification required by this section only at the time of initial certification.

SECTION 20. IC 25-1-9.5-10, AS AMENDED BY P.L.150-2017, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A **prescriber practitioner** who violates this chapter is subject to disciplinary action under IC 25-1-9.

(b) A **prescriber's practitioner's** employer or a **prescriber's practitioner's** contractor that violates this section commits a Class B infraction for each act in which a certification is not filed as required by section 9 of this chapter.

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SECTION 21. IC 25-1-9.5-11, AS AMENDED BY P.L.28-2019, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. A pharmacy does not violate this chapter if the pharmacy fills a prescription for an opioid and the pharmacy is unaware that the prescription was written or electronically transmitted by a prescriber providing ~~telemedicine~~ **telehealth** services under this chapter.

SECTION 22. IC 25-1-9.5-12, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The Indiana professional licensing agency may adopt policies or rules under IC 4-22-2 necessary to implement this chapter. Adoption of policies or rules under this section may not delay the implementation and provision of ~~telemedicine~~ **telehealth** services under this chapter.

SECTION 23. IC 25-1-9.5-13, AS ADDED BY P.L.52-2020, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) As used in this section, "HIPAA" refers to the federal Health Insurance Portability and Accountability Act.

(b) A prescriber may not issue a prescription for an ophthalmic device unless the following conditions are met:

- (1) If the prescription is for contact lenses or eyeglasses, the patient must be at least eighteen (18) years of age but not more than fifty-five (55) years of age.
- (2) The patient must have completed a medical eye history that includes information concerning the following:
 - (A) Chronic health conditions.
 - (B) Current medications.
 - (C) Eye discomfort.
 - (D) Blurry vision.
 - (E) Any prior ocular medical procedures.
- (3) The patient must have had a prior prescription from a qualified eye care professional that included a comprehensive in person exam that occurred within two (2) years before the initial use of ~~telemedicine~~ **telehealth** for a refraction under subdivision (5)(A).
- (4) If the patient desires a contact lens prescription, at the discretion of the eye care professional, that patient must have had a prior contact lens fitting or evaluation by a qualified eye care professional that occurred within two (2) years before the initial use of ~~telemedicine~~ **telehealth** for a refraction under subdivision (5)(A).



(5) The patient:

(A) may not use ~~telemedicine~~ **telehealth** more than two (2) consecutive times within two (2) years from the date of the examination that occurred under subdivision (3) for a refraction without a subsequent in person comprehensive eye exam; and

(B) must acknowledge that the patient has had a comprehensive eye exam as required under clause (A) before receiving an online prescription.

(6) The patient may allow the prescriber to access the patient's medical records using an appropriate HIPAA compliant process.

(7) The prescriber must ensure that the transfer of all information, including the vision test and prescription, comply with HIPAA requirements.

(8) The prescriber must use technology to allow the patient to have continuing twenty-four (24) hour a day online access to the patient's prescription as soon as the prescription is signed by the prescriber.

SECTION 24. IC 25-1-9.5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. Nothing in this chapter requires an individual to provide or use telehealth.**

SECTION 25. IC 25-1-9.5-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. If a veterinarian is required to establish a veterinarian-client-patient relationship to perform a health care service, the veterinarian shall ensure that a proper veterinarian-client-patient relationship is established, as defined in IC 25-38.1-1-14.5, when providing the service using telehealth.**

SECTION 26. IC 25-22.5-2-7, AS AMENDED BY P.L.249-2019, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The board shall do the following:

(1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:

(A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.

(B) The examination for licensure.

(C) The license or permit.

(D) Fees for examination, permit, licensure, and registration.

(E) Reinstatement of licenses and permits.

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- (F) Payment of costs in disciplinary proceedings conducted by the board.
- (2) Administer oaths in matters relating to the discharge of the board's official duties.
- (3) Enforce this article and assign to the personnel of the agency duties as may be necessary in the discharge of the board's duty.
- (4) Maintain, through the agency, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.
- (5) Make available, upon request, the complete schedule of minimum requirements for licensure or permit.
- (6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.
- (7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.
- (8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.
- (9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.
- (10) Adopt rules establishing standards for office based procedures that require moderate sedation, deep sedation, or general anesthesia.
- (11) Adopt rules or protocol establishing the following:
- (A) An education program to be used to educate women with high breast density.
 - (B) Standards for providing an annual screening or diagnostic test for a woman who is at least forty (40) years of age and who has been determined to have high breast density.
- As used in this subdivision, "high breast density" means a condition in which there is a greater amount of breast and connective tissue in comparison to fat in the breast.
- (12) Adopt rules establishing standards and protocols for the prescribing of controlled substances.
- (13) Adopt rules as set forth in IC 25-23.4 concerning the certification of certified direct entry midwives.
- (14) In consultation with the state department of health and the office of the secretary of family and social services, adopt rules



under IC 4-22-2 or protocols concerning the following for providers that are providing office based opioid treatment:

(A) Requirements of a treatment agreement (as described in IC 12-23-20-2) concerning the proper referral and treatment of mental health and substance use.

(B) Parameters around the frequency and types of visits required for the periodic scheduled visits required by IC 12-23-20-2.

(C) Conditions on when the following should be ordered or performed:

(i) A urine toxicology screening.

(ii) HIV, hepatitis B, and hepatitis C testing.

(D) Required documentation in a patient's medical record when buprenorphine is prescribed over a specified dosage.

(15) Adopt rules as set forth in IC 25-14.5 concerning the certification of certified dietitians.

(b) The board may adopt rules that establish:

(1) certification requirements for child death pathologists;

(2) an annual training program for child death pathologists under IC 16-35-7-3(b)(2); and

(3) a process to certify a qualified child death pathologist.

(c) The board may adopt rules under IC 4-22-2 establishing guidelines for the practice of ~~telemedicine~~ **telehealth** in Indiana. Adoption of rules under this subsection may not delay the implementation and provision of ~~telemedicine~~ **telehealth** services by a provider under IC 25-1-9.5.

SECTION 27. IC 25-33-3 IS REPEALED [EFFECTIVE UPON PASSAGE]. (Telepsychology).

SECTION 28. IC 27-8-34-5, AS ADDED BY P.L.185-2015, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. ~~(a)~~ As used in this chapter, "~~telemedicine~~ **telehealth** services" means health care services delivered by use of ~~interactive audio, video, or other electronic media,~~ **technology allowed under IC 25-1-9.5-6**, including the following:

(1) Medical exams and consultations.

(2) Behavioral health, including substance abuse evaluations and treatment.

~~(b) The term does not include the delivery of health care services by use of the following:~~

~~(1) A telephone transmitter for transtelephonic monitoring;~~

~~(2) A telephone or any other means of communication for the consultation from one (1) provider to another provider.~~

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SECTION 29. IC 27-8-34-6, AS ADDED BY P.L.185-2015, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A policy must provide coverage for ~~telemedicine~~ **telehealth** services in accordance with the same clinical criteria as the policy provides coverage for the same health care services delivered in person.

(b) Coverage for ~~telemedicine~~ **telehealth** services required by subsection (a) may not be subject to a dollar limit, deductible, or coinsurance requirement that is less favorable to a covered individual than the dollar limit, deductible, or coinsurance requirement that applies to the same health care services delivered to a covered individual in person.

(c) Any annual or lifetime dollar limit that applies to ~~telemedicine~~ **telehealth** services must be the same annual or lifetime dollar limit that applies in the aggregate to all items and services covered under the policy.

(d) A separate consent for ~~telemedicine~~ **telehealth** services may not be required.

(e) If a policy provides coverage for telehealth services via:

- (1) secure videoconferencing;**
- (2) store and forward technology; or**
- (3) remote patient monitoring technology;**

between a provider in one (1) location and a patient in another location, the policy may not require the use of a specific information technology application for those services.

SECTION 30. IC 27-8-34-7, AS ADDED BY P.L.185-2015, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. This chapter does not do any of the following:

- (1) Require a policy to provide coverage for a ~~telemedicine~~ **telehealth** service that is not a covered health care service under the policy.
- (2) Require the use of ~~telemedicine~~ **telehealth** services when the treating provider has determined that ~~telemedicine~~ **telehealth** services are inappropriate.
- (3) Prevent the use of utilization review concerning coverage for ~~telemedicine~~ **telehealth** services in the same manner as utilization review is used concerning coverage for the same health care services delivered to a covered individual in person.

SECTION 31. IC 27-13-1-34, AS ADDED BY P.L.185-2015, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) "~~Telemedicine~~ "**Telehealth** services"



means health care services delivered by use of ~~interactive audio, video, or other electronic media,~~ **technology allowed under IC 25-1-9.5-6,** including the following:

- (1) Medical exams and consultations.
- (2) Behavioral health, including substance abuse evaluations and treatment.

~~(b) The term does not include the delivery of health care services by use of the following:~~

- ~~(1) A telephone transmitter for transtelephonic monitoring.~~
- ~~(2) A telephone or any other means of communication for the consultation from one (1) provider to another provider.~~

SECTION 32. IC 27-13-7-22, AS ADDED BY P.L.185-2015, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) An individual contract or a group contract must provide coverage for ~~telemedicine telehealth~~ services in accordance with the same clinical criteria as the individual contract or the group contract provides coverage for the same health care services delivered to an enrollee in person.

(b) Coverage for ~~telemedicine telehealth~~ services required by subsection (a) may not be subject to a dollar limit, copayment, or coinsurance requirement that is less favorable to an enrollee than the dollar limit, copayment, or coinsurance requirement that applies to the same health care services delivered to an enrollee in person.

(c) Any annual or lifetime dollar limit that applies to ~~telemedicine telehealth~~ services must be the same annual or lifetime dollar limit that applies in the aggregate to all items and services covered under the individual contract or the group contract.

(d) This section does not do any of the following:

- (1) Require an individual contract or a group contract to provide coverage for a ~~telemedicine telehealth~~ service that is not a covered health care service under the individual contract or group contract.
- (2) Require the use of ~~telemedicine telehealth~~ services when the treating provider has determined that ~~telemedicine telehealth~~ services are inappropriate.
- (3) Prevent the use of utilization review concerning coverage for ~~telemedicine telehealth~~ services in the same manner as utilization review is used concerning coverage for the same health care services delivered to an enrollee in person.

(e) A separate consent for ~~telemedicine telehealth~~ services may not be required.

(f) If a policy provides coverage for telehealth services via:

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- (1) secure videoconferencing;**
- (2) store and forward technology; or**
- (3) remote patient monitoring technology;**

between a provider in one (1) location and a patient in another location, the policy may not require the use of a specific information technology application for those services.

SECTION 33. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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