



SPONSOR: Rep. Bentz & Sen. Townsend

HOUSE OF REPRESENTATIVES
150th GENERAL ASSEMBLY

HOUSE BILL NO. 348

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:

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

2 (1) On March 12, 2020 Governor John C. Carney declared a State of Emergency effective as of March 13,
3 2020 due to the serious public health threat created by the novel coronavirus, "Covid-19."

4 (2) On March 18, 2020 Governor John C. Carney issued the Second Modification of the March 12, 2020
5 Declaration of a State of Emergency due to a Public Health Threat which, inter alia, suspended all Title 24 statutory
6 requirements that patients present in-person before telemedicine services may be provided so long as the patient is a
7 Delaware resident and directed that any out of state health care provider holding an active license in another
8 jurisdiction who would be permitted to provide telemedicine services in Delaware if licensed under Title 24 may
9 provide telemedicine services to a Delaware resident. The March 18, 2020 Second Modification also suspended the
10 Delaware Board of Medical Licensure and Discipline Regulation 19 requiring that telemedicine communications
11 include a visual communication component.

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

16 (4) On April 6, 2020 Governor John C. Carney issued the Tenth Modification of the March 12, 2020
17 Declaration of a State of Emergency due to a Public Health Threat which stated: "6. INSURANCE: Pursuant to the
18 authority provided in 20 Del. C. §3116(a)(2), requirements for the provision of telemedicine and telehealth under Title
19 24 of the Delaware Code that require both audio and visual technology are suspended, which will allow the use of non-
20 smart phone or landline connections."

21 (5) The interest of Delawareans will be served by ensuring the provisions addressed in the Declaration of the
22 State of Emergency as modified pertaining to telemedicine are maintained into the foreseeable future to facilitate the

23 delivery of health care services during and in the aftermath of the serious public health threat occasioned by COVID-
24 19.

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

27 Chapter 33. Health Insurance Contracts

28 § 3370. Telemedicine.

29 (a) As used in this section:

30 (1) “Distant site” means a site at which a health care provider legally allowed to practice in the state or at
31 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
32 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

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

51 Chapter 35. Group and Blanket Health Insurance.

52 § 3571R. Telemedicine.

53 (a) As used in this section:

54 (1) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
55 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
56 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

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

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

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

85 Chapter 17. Medical Practice Act

86 Subchapter I. General Provisions.

87 §1702 Definitions [Effective until Jan. 1, 2021].

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

89 (4) “Distant site” means a site at which a health care provider legally allowed to practice in the state or at
90 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
91 licensed under this title is located while providing health care services by means of telemedicine.

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

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

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

108 §1702 Definitions [Effective Jan. 1, 2021].

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

110 (4) “Distant site” means a site at which a health care provider legally allowed to practice in the state or at
111 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
112 licensed under this title is located while providing health care services by means of telemedicine.

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

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

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

129 § 1769D. Telemedicine and Telehealth.

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

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

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

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

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

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

143 (4) The pendency of the emergency resulting from COVID-19 which makes it impractical for a patient to
144 consult with a physician in-person prior to the delivery of telemedicine services.

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

147 Chapter 5. Podiatry

148 Subchapter I. Board of Podiatry.

149 § 502 Definitions [Effective until Jan. 1, 2021]

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

152 (3) “Distant site” means a site at which a health care provider legally allowed to practice in the state or at
153 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
154 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

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

179 § 502 Definitions [Effective Jan. 1, 2021]

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

182 (3) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
183 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
184 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

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

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

211 Chapter 7. Board of Chiropractic.

212 § 701 Chiropractic defined; limitation of chiropractic license.

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

215 (2) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
216 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
217 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

232 patient and with other restrictions as defined in regulation. which may not require the use of technology requiring
233 visual communication.

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

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

242 Chapter 11. Dentistry and Dental Hygiene

243 Subchapter I. State Board of Dentistry and Dental Hygiene

244 § 1101 Definitions [Effective until Jan. 1, 2021].

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

247 (8) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
248 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
249 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

255 (13) "Practice of dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical,
256 surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the
257 adjacent and associated structures and their impact on the human body provided by a dentist within the scope of the
258 dentist's education, training and experience, in accordance with the ethics of the profession and applicable law. The
259 practice includes the use of Telemedicine and may also include participation in Telehealth as further defined in
260 regulation. which may not require the use of technology permitting visual communication. A person shall be construed
261 to practice dentistry who by verbal claim, sign, advertisement, opening of an office, or in any other way, including use

262 of the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or titles, represents the
263 person to be a dentist or who holds himself or herself out as able to perform, or who does perform, dental services or
264 work. A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place
265 for performing dental operations or who for a fee, salary or other reward paid, or to be paid either to himself or herself
266 or to another person, performs or advertises to perform dental operations of any kind.

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

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

278 §1101 Definitions [Effective Jan. 1, 2021].

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

281 (8) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
282 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
283 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

289 (15) "Practice of dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical,
290 surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the
291 adjacent and associated structures and their impact on the human body provided by a dentist within the scope of the

292 dentist's education, training and experience, in accordance with the ethics of the profession and applicable law. The
293 practice includes the use of Telemedicine and may also include participation in Telehealth as further defined in
294 regulation: which may not require the use of technology permitting visual communication. A person shall be construed
295 to practice dentistry who by verbal claim, sign, advertisement, opening of an office, or in any other way, including use
296 of the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or titles, represents the
297 person to be a dentist or who holds himself or herself out as able to perform, or who does perform, dental services or
298 work. A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place
299 for performing dental operations or who for a fee, salary or other reward paid, or to be paid either to himself or herself
300 or to another person, performs or advertises to perform dental operations of any kind.

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

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

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

314 Chapter 19. Nursing

315 § 1902 Definitions [Effective until January 1, 2021].

316 (i) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
317 which a health care provider is licensed in another jurisdiction who would be permitted to provide services in
318 Delaware if licensed under this title is located while providing health care services by means of telemedicine or
319 telehealth.

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

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

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

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

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

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

344 (z) "The practice of professional nursing" as a registered nurse means the performance of professional
345 nursing services by a person who holds a valid license pursuant to the terms of this chapter, and who bears primary
346 responsibility and accountability for nursing practices based on specialized knowledge, judgment and skill derived
347 from the principles of biological, physical and behavioral sciences. The registered nurse practices in the profession
348 of nursing by the performance of activities, among which are:

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

351 § 1902 Definitions [Effective January 1, 2021].

352 (i) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
353 which a health care provider is licensed in another jurisdiction who would be permitted to provide services in
354 Delaware if licensed under this title is located while providing health care services by means of telemedicine or
355 telehealth.

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

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

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

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

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

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

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

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

386 §1933. Telemedicine

387 (a) Telemedicine shall not be utilized by an APRN with respect to any patient in the absence of an APRN-patient
388 relationship-except during the pendency of the emergency resulting from COVID-19 which makes it impractical for a
389 patient to consult with the APRN in-person prior to the delivery of telemedicine services.

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

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

395 Chapter 20. Occupational Therapy.

396 Subchapter I. Board of Occupational Therapy Practice.

397 § 2002 Definitions.

398 As used in this chapter:

399 (3) “Distant site” means a site at which a health care provider legally allowed to practice in the state or at
400 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
401 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

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

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

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

425 Chapter 21. Optometry.

426 §2101 Definition of practice of optometry.

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

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

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

449 Chapter 25. Pharmacy

450 Subchapter I. Objectives; Definitions; Board of Pharmacy

451 § 2502 Definitions.

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

454 (6) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
455 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
456 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

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

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

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

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

482 Chapter 30. Mental Health and Chemical Dependency Professionals.

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

484 § 3002 Definitions.

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

487 (3) “Distant site” means a site at which a health care provider legally allowed to practice in the state or at
488 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
489 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

499 (11) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means
500 of real time two-way audio, visual, or other telecommunications or electronic communications, including the

501 application of secure video conferencing or store and forward transfer technology to provide or support healthcare
502 delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-
503 management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced
504 in-person with a patient and with other restrictions as defined in regulation—which may not require the use of
505 technology permitting visual communication.

506 Subchapter III. Chemical Dependency Professionals

507 §3041 Definitions.

508 As used in this subchapter:

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

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

517 Chapter 35. Psychology

518 Subchapter I. Board of Examiners of Psychologists

519 § 3502 Definitions.

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

522 (3) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
523 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
524 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

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

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

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

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

558 Chapter 38. Dietitian/Nutritionist Licensure Act

559 § 3802 Definitions.

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

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

567 Scope of Practice:

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

571 (5) "Distant site" means a site at which a health care provider legally allowed to practice in the state or at
572 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
573 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

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

592 Chapter 39. Board of Social Work Examiners

593 § 3902 Definitions.

594 As used in this chapter:

595 (13) “Distant site” means a site at which a health care provider legally allowed to practice in the state or at
596 which a health care provider licensed in another jurisdiction who would be permitted to provide services in Delaware if
597 licensed under this title is located while providing health care services by means of telemedicine or telehealth.

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

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

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

614 § 3920 Telehealth and Telemedicine.

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

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

SYNOPSIS

This Act continues certain provisions in the Declaration of a State of Emergency for the State of Delaware dated March 12, 2020 due to a Public Health Threat as a result of the COVID-19 pandemic as modified related to telemedicine. The Second Modification of the State of Emergency suspended all Title 24 statutory requirements that patients present in-person before telemedicine services may be provided and the requirement that a patient must be in Delaware at the time the telemedicine services are provided; this Act continues the suspension of those requirements, but specifies that the requirement that a patient present in-person prior to the delivery of telemedicine services is excused only during the pendency of emergency conditions which make in-person presentation impractical. The Tenth Modification of the State of Emergency suspended any requirement in regulation that required both audio and visual technology; this Act prohibits any regulation pertaining to telemedicine requiring visual communication so as to permit telemedicine services via non-smart phones or land line connections.

Professions not covered by this Act include those professionals who require direct supervision by the nature of the work such as licensed associate counselors of mental health. Such professionals may engage in telemedicine and telehealth as provided by existing law.

This Act requires that telemedicine services permitted under this Act receive the same insurance coverage as under existing law.