SPONSOR: Rep. Bentz & Sen. S. McBride & Sen. Brown & Sen. Townsend & Rep. Briggs King & Rep. Heffernan Reps. Baumbach, Brady, Bush, Griffith, Morrison, Osienski, Shupe, Michael Smith, Spiegelman, K. Williams; Sens. Gay, Hansen, Lopez, Pettyjohn, Poore, Sokola, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 160

AN ACT TO AMEND TITLES 18 AND 24 OF THE DELAWARE CODE RELATING TO PRESERVING TELEHEALTH AND ADOPTING THE INTERSTATE MEDICAL LICENSURE COMPACT.

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

Section 1. This Act shall be known as the "Telehealth Access Preservation and Modernization Act of 2021".

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

Chapter 33. Health Insurance Contracts

Subchapter I. General Provisions

§ 3370. Telehealth and Telemedicine [Effective July 1, 2021].

(a) As used in this section:

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

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

(4) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical ~~health care,~~ health-care provider consultation, patient and professional health-related education, public health, health administration, and other services as authorized in Chapter 60 of Title 24. ~~and described in regulation.~~

(5) "Telemedicine" is a subset of telehealth which is the delivery of clinical health-care services and other services, as authorized in Chapter 60 of Title 24, by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and

forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's ~~health care~~ health-care by a health-care provider legally allowed to practice in the state and practicing within ~~his or her~~ the health-care provider's scope of practice as would be practiced in-person with a patient, ~~and legally allowed to practice in the State,~~ while such patient is at an originating site and the health-care provider is at a distant site.

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

Chapter 35. Group and Blanket Health Insurance.

Subchapter III. Provisions Applicable to Group and Blanket Health Insurance.

§ 3571R. Telehealth and Telemedicine [Effective July 1, 2021].

(a) As used in this section:

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

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

(4) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical ~~health care,~~ health-care provider consultation, patient and professional health-related education, public health, health administration, and other services as authorized in Chapter 60 of Title 24. ~~and described in regulation.~~

(5) "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services, and other services, as authorized in Chapter 60 of Title 24, by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's ~~health care~~ health-care by a health-care provider legally allowed to practice in the state and practicing within ~~his or her~~ the health-care provider's scope of practice as would be practiced in-person with a patient, ~~and legally allowed to practice in the State~~ while such patient is at an originating site and the health-care provider is at a distant site.

Section 4. Amend Title 24 of the Delaware Code inserting a new chapter 60 by making insertions as shown by underline and deletions as shown by strike through as follows:

Chapter 60. Provisions Applicable to Telehealth and Telemedicine.

§ 6001. Definitions.

As used in this chapter:

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

(2) "Health-care provider" means any person authorized to deliver clinical health-care services by telemedicine and participate in telehealth pursuant to this chapter and regulations promulgated by the respective professional boards listed in § 6002.

(3) "Originating site" means a site in Delaware at which a patient is located at the time health-care services are provided to the patient by means of telemedicine or telehealth. Notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(4) "Store and forward transfer" means the synchronous or asychronous transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(5) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health-care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(6) "Telemedicine" means a form, or subset, of telehealth, which includes the delivery of clinical health-care services by means of real time 2-way audio (including audio-only conversations, if the patient is not able to access the appropriate broadband service or other technology necessary to establish an audio and visual connection), visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitates the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health-care.

§ 6002. Authorization to practice by telehealth and telemedicine.

(a) Health-care providers licensed by the following professional boards existing under this title are authorized to deliver health-care services by telehealth and telemedicine subject to the provisions of this chapter:

(1) The Board of Podiatry created pursuant to Chapter 5 of this title.

(2) The Board of Chiropractic created pursuant to Chapter 7 of this title.

(3) The Board of Medical Practice created pursuant Chapter 17 of this title.

(4) The State Board of Dentistry and Dental Hygiene created pursuant to Chapter 11 of this title.

(5) The Delaware Board of Nursing created pursuant to Chapter 19 of this title.

(6) The Board of Occupational Therapy Practice created pursuant to Chapter 20 of this title.

(7) The Board of Examiners in Optometry created pursuant to Chapter 21 of this title.

(8) The Board of Pharmacy created pursuant to Chapter 25 of this title.

(9) The Board of Mental Health and Chemical Dependency Professionals created pursuant to Chapter 30 of this title.

(10) The Board of Examiners of Psychologists created pursuant to Chapter 35 of this title.

(11) The State Board of Dietetics/Nutrition created pursuant to Chapter 38 of this title.

(12) The Board of Social Work Examiners created pursuant to Chapter 39 of this title.

(b) A professional board listed in § 6002(a) of this title may promulgate or revise regulations and establish or revise rules applicable to health-care providers under the professional Board's jurisdiction in order to facilitate the provision of telehealth and telemedicine services consistent with this chapter.

§ 6003. Scope of practice; provider-patient relationship required.

(a) Except for the instances listed in this chapter, health-care providers may not deliver health-care services by telehealth and telemedicine in the absence of a health-care provider-patient relationship. A health-care provider-patient relationship may be established either in-person or through telehealth and telemedicine but must include the following:

(1) Thorough verification and authentication of the location and, to the extent possible, identity of the patient.

(2) Disclosure and validation of the provider's identity and credentials.

(3) Receipt of appropriate consent from a patient after disclosure regarding the delivery model and treatment method or limitations, including informed consent regarding the use of telemedicine technologies as required by paragraph (a)(5) of this section.

(4) Establishment of a diagnosis through the use of acceptable medical practices, such as patient history, mental status examination, physical examination (unless not warranted by the patient's mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identification of underlying conditions or contra-indications, or both, for treatment recommended or provided.

(5) Discussion with the patient of any diagnosis and supporting evidence as well as risks and benefits of various treatment options.

(6) The availability of a distant site provider or other coverage of the patient for appropriate follow-up care.

(7) A written visit summary provided to the patient.

(b) Health-care services delivered by telehealth and telemedicine may be synchronous or asynchronous using store-and-forward technology. Telehealth and telemedicine services may be used to establish a provider-patient relationship only if the provider determines that the provider is able to meet the same standard of care as if the health-care services were being provided in-person.

(c) Treatment and consultation recommendations delivered by telehealth and telemedicine shall be subject to the same standards of appropriate practice as those in traditional (in-person encounter) settings. In the absence of a proper health-care provider-patient relationship, health-care providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult.

§ 6004. Practice requirements.

(a) A health-care provider using telemedicine and telehealth technologies to deliver health-care services to a patient must, prior to diagnosis and treatment, do at least one of the following:

(1) Provide an appropriate examination in-person.

(2) Require another Delaware-licensed health-care provider be present at the originating site with the patient at the time of the diagnosis.

(3) Make a diagnosis using audio or visual communication.

(4) Meet the standard of service required by applicable professional societies in guidelines developed for establishing a health-care provider-patient relationship as part of an evidenced-based clinical practice in telemedicine.

(b) After a health-care provider-patient relationship is properly established in accordance with this section, subsequent treatment of the same patient by the same health-care provider need not satisfy the limitations of this section.

(c) A health-care provider treating a patient through telemedicine and telehealth must maintain complete records of the patient's care and follow all applicable state and federal statutes and regulations for recordkeeping, confidentiality, and disclosure to the patient.

(d) Telehealth and telemedicine services shall include, if required by the applicable professional board listed in §6002(a) of this title, use of the Delaware Health Information Network (DHIN) in connection with the practice.

(e) Nothing in this section shall be construed to limit the practice of radiology or pathology.

§ 6005. Exceptions.

(a) Telehealth and telemedicine may be practiced without a health-care provider-patient relationship during:

(1) Informal consultation performed by a health-care provider outside the context of a contractual relationship

and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation.

(2) Furnishing of assistance by a health-care provider in case of an emergency or disaster when circumstances do not permit the establishment of a health-care provider-patient relationship prior to the provision of care if no charge is made for the medical assistance.

(3) Episodic consultation by a specialist located in another jurisdiction who provides such consultation services at the request of a licensed health-care professional.

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

(b) A mental health provider, behavioral health provider, or social worker licensed in another jurisdiction who would be authorized to deliver health-care services by telehealth or telemedicine under this chapter if licensed in this State pursuant to Chapter 30 (Mental Health and Chemical Dependency Professionals), Chapter 35 (Psychologists), or Chapter 38 (Social Workers) of this title may provide treatment to Delaware residents through telehealth and telemedicine services. The Division of Professional Regulation shall require any out-of-state health- care provider practicing in this State pursuant to this section to complete a Medical Request Form and comply with any other registration requirements the Division of Professional Regulation may establish.

Section 5. Amend Chapter 17, Title 24 of the Delaware Code by making deletions as shown by strike through and re-designating accordingly:

Chapter 17. Medical Practice Act

Subchapter I. General Provisions

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

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

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

~~(17) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(18) "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services by means of real-time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a health-care provider practicing within his or her scope of practice as would be practiced in-person with a patient, legally allowed to practice in the State, while such patient is at an originating site and the health-care provider is at a distant site.~~

Section 6. Amend §1769D, Title 24 of the Delaware Code by making deletions as shown by strike through as follows:

~~§ 1769D Telemedicine and telehealth [Effective July 1, 2021].~~

~~(a) Physicians may practice telemedicine and telehealth. Provided that telemedicine shall not be utilized by a physician with respect to any patient in the absence of a physician-patient relationship, except for the instances in subsection (k) of this section.~~

~~(b) Physicians who utilize telemedicine shall, if such action would otherwise be required in the provision of the same service not delivered via telemedicine, ensure that a proper physician-patient relationship is established either in-person or through telehealth which includes but is not limited to:~~

~~(1) Fully verifying and authenticating the location and, to the extent possible, identifying the requesting patient;~~

~~(2) Disclosing and validating the provider's identity and applicable credential or credentials;~~

~~(3) Obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including informed consents regarding the use of telemedicine technologies as indicated in paragraph (b)(5) of this section;~~

~~(4) Establishing a diagnosis through the use of acceptable medical practices, such as patient history, mental status examination, physical examination (unless not warranted by the patient's mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contra-indications, or both, to treatment recommended or provided;~~

~~(5) Discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options;~~

~~(6) Ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care; and~~

~~(7) Providing a written visit summary to the patient.~~

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

~~(d) The physician treating a patient through telemedicine must maintain a complete record of the patient's care which must follow all applicable state and federal statutes and regulations for recordkeeping, confidentiality, and disclosure to the patient.~~

~~(e) Telemedicine shall include, at such time as feasible and when appropriate, utilizing the Delaware Health Information Network (DHIN) in connection with the practice.~~

~~(f) Without a prior and proper patient-provider relationship, as provided in subsection (b) of this section, providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult.~~

~~(g) Prescriptions made through telemedicine and under a physician-patient relationship may include controlled substances, subject to limitations as set by the Board.~~

~~(h) Physicians using telemedicine technologies to provide medical care to patients located in Delaware must, prior to a diagnosis and treatment, either provide:~~

~~(1) An appropriate examination in-person;~~

~~(2) Have another Delaware-licensed practitioner at the originating site with the patient at the time of the diagnosis;~~

~~(3) The diagnosis must be based using both audio and visual communication; or~~

~~(4) The service meets standards of establishing a patient-physician relationship included as part of evidenced-based clinical practice guidelines in telemedicine developed by major medical specialty societies.~~

~~(i) After a physician-patient relationship is properly established in accordance with this section, subsequent treatment of the same patient with the same physician need not satisfy the limitations of this section.~~

~~(j) Nothing in this section shall be construed to limit the practice of radiology or pathology.~~

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

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

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

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

Section 7. Chapter 5, Title 24 of the Delaware Code by making deletions as shown by strike through and re-designating accordingly:

Chapter 5. Podiatry

Subchapter I. Board of Podiatry.

§ 502. Definitions [Effective July 1, 2021].

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

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

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

~~(15) "Store-and-forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.~~

~~(18) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(19) "Telemedicine" means the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store-and-forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.~~

Section 8. Amend Chapter 7, Title 24 of the Delaware Code by making deletions as shown by strike through as follows:

Chapter 7. Board of Chiropractic

§ 701. Chiropractic defined; limitation of chiropractic license [Effective July 1, 2021].

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

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

~~(4) "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.~~

~~(5) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.(6) "Telemedicine" means a form of telehealth which the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.~~

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

Section 9. Amend Chapter 11, Title 24 of the Delaware Code by making deletions as shown by strike through and re-designating accordingly:

Chapter 11. Dentistry and Dental Hygiene

Subchapter I. State Board of Dentistry and Dental Hygiene

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

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

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

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

(15) "Practice of dentistry" is defined as the evaluation, diagnosis, prevention ~~and/or~~ and treatment (nonsurgical, surgical or related procedures) of diseases, disorders ~~and/or~~ and conditions of the oral cavity, maxillofacial area ~~and/or~~ and the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of the dentist's education, training and experience, in accordance with the ethics of the profession and applicable law. ~~The practice includes the use of telemedicine and may also include participation in telehealth as further defined in regulation.~~ A person shall be construed to practice dentistry who by verbal claim, sign, advertisement, opening of an office, or in any other way, including use of the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or titles, represents the person to be a dentist or who holds himself or herself out as able to perform, or who does perform, dental services or work. A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place for performing dental operations or who for a fee, salary or other reward paid, or to be paid either to himself or herself or to another person, performs or advertises to perform dental operations of any kind.

~~(17) "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.~~

~~(19) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(20) "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services by means of real-time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which~~

~~facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.~~

Section 10. Amend Chapter 19, Title 24 of the Delaware Code by making deletions as shown by strike through and re-designating accordingly:

Chapter 19. Nursing

§ 1902. Definitions [Effective July 1, 2021].

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

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

~~(v) "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.~~

~~(x) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices, or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(y) "Telemedicine" means the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.~~

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

~~(8) The use of telemedicine, as defined in this chapter, and practice of and participation in telehealth as further~~

~~defined in regulation.~~

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

~~(8) The use of telemedicine, as defined in this chapter, and participation in telehealth, as further defined in regulation.~~

Section 11. Amend §1933, Title 24 of the Delaware Code by making deletions as shown by strike through as follows:

~~§ 1933 Telemedicine [Effective July 1, 2021].~~

~~(a) Telemedicine shall not be utilized by an advanced practice registered nurse (APRN) with respect to any patient in the absence of an APRN-patient relationship.~~

~~(b) APRNs who utilize telemedicine shall, if such action would otherwise be required in the provision of the same service not delivered via telemedicine, ensure that a proper APRN-patient relationship is established which includes but is not limited to:~~

~~(1) Fully verifying and authenticating the location and, to the extent possible, identifying the requesting patient;~~

~~(2) Disclosing and validating the provider's identity and applicable credential or credentials;~~

~~(3) Obtaining appropriate consents from requesting patients after disclosures regarding the delivery models and treatment methods or limitations, including informed consents regarding the use of telemedicine technologies as indicated in paragraph (b)(5) of this section;~~

~~(4) Establishing a diagnosis through the use of acceptable medical practices, as patient history, mental status examination, physical examination (unless not warranted by the patient's mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contra-indications, or both, to treatment recommended or provided;~~

~~(5) Discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options;~~

~~(6) Ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care; and~~

~~(7) Providing a written visit summary to the patient.~~

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

~~(d) The APRN treating a patient through telemedicine must maintain a complete record of the patient's care which must follow all applicable state and federal statutes and regulations for recordkeeping, confidentiality, and disclosure to the patient.~~

~~(e) Telemedicine shall include, at such time as feasible and when appropriate, utilizing the Delaware Health Information Network (DHIN) in connection with the practice.~~

~~(f) Without a prior and proper patient-provider relationship, as provided in paragraph (b)(5) of this section, providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult.~~

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

~~(h) This section does not apply to any of the following:~~

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

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

~~(3) Episodic consultation by a medical specialist located in another jurisdiction who provides such consultation services on request to a person licensed in this State.~~

Section 12. Amend Chapter 20, Title 24 of the Delaware Code by making deletions as shown by strike through and re-designating accordingly:

Chapter 20. Occupational Therapy.

Subchapter I. Board of Occupational Therapy Practice.

§ 2002. Definitions [Effective July 1, 2021].

As used in this chapter:

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

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

~~c. "Occupational therapy services" or "practice of occupational therapy" may be provided through the use of telemedicine in a manner deemed appropriate by regulation and may include participation in telehealth as further defined in regulation.~~

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

~~(13) "Store-and-forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present or that the transmission be in real time.~~

~~(16) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices, or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(17) "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care by a licensee practicing within the licensee's scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.~~

Section 13. Amend Chapter 21, Title 24 of the Delaware Code by making deletions as shown by strike through as follows:

Chapter 21. Optometry.

§ 2101. Definition of practice of optometry [Effective July 1, 2021].

~~(e) The practice of optometry also includes services provided by telemedicine and participation in telehealth. For the purposes of this section, "telehealth" is defined as the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the~~

~~application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. "Distant site" means a site at which a health-care provider legally allowed to practice in the State is located while providing health-care services by means of telemedicine or telehealth. "Originating site" means a site in Delaware at which a patient is located at the time health-care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties. "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.~~

Section 14. Amend Chapter 25, Title 24 of the Delaware Code by making deletions as shown by strike through and re-designating accordingly:

Chapter 25. Pharmacy

Subchapter I. Objectives; Definitions; Board of Pharmacy

§ 2502. Definitions [Effective July 1, 2021].

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

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

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

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

~~g. The use of telemedicine and participation in telehealth in a manner deemed appropriate by regulation;~~

~~and~~

~~(30) "Store-and-forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.~~

~~(33) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(34) "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.~~

Section 15. Amend Subchapter I, Chapter 30, Title 24 of the Delaware Code by making deletions as shown by strike through and re-designating accordingly:

Chapter 30. Mental Health and Chemical Dependency Professionals

Subchapter I. Board of Mental Health and Chemical Dependency Professionals

§ 3002. Definitions [Effective July 1, 2021].

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

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

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

~~(8) "Store-and-forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.~~

~~(10) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(11) "Telemedicine" means a form of telehealth which is the delivery of clinical health care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.~~

Section 16. Amend Subchapter III, Chapter 30, Title 24 of the Delaware Code by making the deletions as shown by strike through as follows:

Subchapter III. Chemical Dependency Professionals

§ 3041. Definitions [Effective July 1, 2021].

As used in this subchapter:

(1) "Chemical dependency professional" is a person who uses addiction counseling methods to assist an individual or group to develop an understanding of alcohol and drug dependency problems, define goals, and plan action reflecting the individual's or group's interest, abilities and needs as affected by addiction problems. ~~Such services may be provided through the use of telemedicine in a manner deemed appropriate by regulation. Services also may include participation in telehealth as further defined in regulation.~~

Section 17. Amend Chapter 35, Title 24 of the Delaware Code by making deletions as shown by strike through and re-designating accordingly:

Chapter 35. Psychology

Subchapter I. Board of Examiners of Psychologists

§ 3502. Definitions [Effective July 1, 2021].

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

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

~~(5) "Originating site" means a site in Delaware at which a patient is located at the time health-care services~~

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

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

The practice of psychology includes~~, but is not limited to,~~ psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes and neuropsychological function; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, organizations, institutions and the public.

The practice of psychology shall be construed within the meaning of this definition without regard to whether or not payment is received for services rendered.

~~The practice of psychology may be provided through the use of telemedicine in a manner deemed appropriate by regulation. Services also may include participation in telehealth as further defined in regulation.~~

~~(10) "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.~~

~~(14) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(15) "Telemedicine" means a form of telehealth which is the delivery of clinical health care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a~~

~~patient and with other restrictions as defined in regulation.~~

Section 18. Amend Chapter 38, Title 24 of the Delaware Code by making deletions as shown by strike through and re-designating accordingly:

Chapter 38. Dietician/Nutritionist Licensure Act

§ 3802. Definitions [Effective July 1, 2021].

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

Scope of Practice:

~~(i) The use of telemedicine in a manner deemed appropriate by regulation. This also may include participation in telehealth as further defined in regulation.~~

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

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

~~(10) "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.~~

~~(12) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(13) "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a~~

~~patient's health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.~~

Section 19. Amend Chapter 39, Title 24 of the Delaware Code by making deletions as shown by strike through as follows:

Chapter 39. Board of Social Work Examiners

§ 3902. Definitions [Effective July 1, 2021].

As used in this chapter:

~~(13) "Distant site" means a site at which a health-care provider legally allowed to practice in the State is located while providing health-care services by means of telemedicine or telehealth.~~

~~(23) "Originating site" means a site in Delaware at which a client is located at the time health-care services are provided to the client by means of telemedicine or telehealth.~~

~~(27) "Store-and-forward transfer" means the transmission of a client's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the client being present or the transmission to be in real time.~~

~~(30) "Telehealth" means the use of information and communications technologies consisting of telephones, remote client monitoring devices, or other electronic means which support clinical health care, provider consultation, client and professional health-related education, public health, health administration, and other services as described in regulation.~~

~~(31) "Telemedicine" means a form of telehealth which is the delivery of clinical health-care services by means of real time 2-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support health-care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a client's health care by a licensee practicing within the licensee's scope of practice as would be practiced in-person with a client and with other restrictions as defined in regulation.~~

Section 20. Amend Chapter 17, Title 24 of the Delaware Code by inserting a new Chapter 17A with insertions shown by underline and deletions shown by strike through as follows:

Chapter 17A. Interstate Medical Licensure Compact

§ 1701A. Interstate Medical Licensure Compact; findings and declaration of purpose.

(a) The State hereby enters into the Interstate Medical Licensure Compact (IMLC) the text of which is as set forth in this chapter.

(b) In order to strengthen access to health-care, and in recognition of the advances in the delivery of health-care, the member states of the Interstate Medical Licensure Compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The Compact creates another pathway for licensure and does not otherwise change a state's existing Medical Practice Act. The Compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the Compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the Compact.

§ 1702A. Definitions.

In this compact:

(a) "Bylaws" means those bylaws established by the Interstate Commission pursuant to § 1714A.

(b) "Commissioner" means the voting representative appointed by each member board pursuant to § 1711A.

(c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(d) "Expedited License" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the Compact.

(e) "Interstate Commission" means the interstate commission created pursuant to § 1711A.

(f) "License" means authorization by a member state for a physician to engage in the practice of medicine, which would be unlawful without authorization.

(g) "Medical Practice Act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(h) "Member Board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation, and education of physicians as directed by the state government.

(i) "Member State" means a state that has enacted the Compact.

(j) "Practice of Medicine" means that clinical prevention, diagnosis, or treatment of human disease, injury, or condition requiring a physician to obtain and maintain a license in compliance with the Medical Practice Act of a member state.

(k) "Physician" means any person who:

(1) Is a graduate of a medical school accredited by the Liaison Committee on Medical Education, the Commission on Osteopathic College Accreditation, or a medical school listed in the International Medical Education Directory or its equivalent.

(2) Passed each component of the United State Medical Licensing Examination (USMLE) or the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes.

(3) Successfully completed graduate medical education approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association.

(4) Holds specialty certification or a time-unlimited specialty certificate recognized by the American Board of Medical Specialties or the American Osteopathic Association's Bureau of Osteopathic Specialists.

(5) Possesses a full and unrestricted license to engage in the practice of medicine issued by a member board.

(6) Has never been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction.

(7) Has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license.

(8) Has never had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

(9) Is not under active investigation by a licensing agency or law enforcement authority in any state, federal, or foreign jurisdiction.

(l) "Offense" means a felony, gross misdemeanor, or crime of moral turpitude.

(m) "Rule" means a written statement by the Interstate Commission promulgated pursuant to § 1712A of this chapter that is of general applicability, implements, interprets, or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

(n) "State" means any state, commonwealth, district, or territory of the United States.

(o) "State of Principal License" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the Compact.

§ 1703A. Eligibility.

(a) A physician must meet the eligibility requirements as defined in §1702A(k) to receive an expedited license

under the terms and provisions of the Compact.

(b) A physician who does not meet the requirements of §1702A(k) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the Compact, relating to the issuance of a license to practice medicine in that state.

§ 1704A. Designation of state of principal license.

(a) A physician shall designate a member state as the state of principal license for purposes of registration for expedited licensure through the Compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is any of the following:

(1) The state of principal residence for the physician.

(2) The state where at least 25% of the practice of medicine occurs.

(3) The location of the physician's employer.

(4) If no state qualifies under subsection (1), subsection (2), or subsection (3), the state designated as state of residence for purpose of federal income tax.

(b) A physician may re-designate a member state as state of principal license at any time, as long as the state meets the requirements of subsection (a).

(c) The Interstate Commission is authorized to develop rules to facilitate re-designation of another member state as the state of principal license.

§ 1705A. Application and issuance of expedited licensure.

(a) A physician seeking licensure through the Compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the Interstate Commission.

(1) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination, and other qualifications as determined by the Interstate Commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(2) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the Federal Bureau of Investigation, with the exception of

federal employees who have suitability determination in accordance with 5 C.F.R. §731.202.

(3) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification in subsection (b), physicians eligible for an expedited license shall complete the registration process established by the Interstate Commission to receive a license in a member state selected pursuant to subsection (a), including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the Medical Practice Act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the Compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without re-designation of a new state of principal licensure.

(g) The Interstate Commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

§ 1706A. Fees for expedited licensure.

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the Compact.

(b) The Interstate Commission is authorized to develop rules regarding fees for expedited licenses.

§ 1707A. Renewal and continued participation.

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the Interstate Commission if the physician:

(1) Maintains a full and unrestricted license in a state of principal license.

(2) Has not been convicted, received adjudication, deferred adjudication, community supervision, or deferred disposition for any offense by a court of appropriate jurisdiction.

(3) Has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal, or foreign jurisdiction, excluding any action related to non-payment of fees related to a license.

(4) Has not had a controlled substance license or permit suspended or revoked by a state or the United States Drug Enforcement Administration.

(b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The Interstate Commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected in subsection (c), a member board shall renew the physician's license.

(e) Physician information collected by the Interstate Commission during the renewal process will be distributed to all member boards.

(f) The Interstate Commission is authorized to develop rules to address renewal of licenses obtained through the Compact.

§ 1708A. Coordinated information system.

(a) The Interstate Commission shall establish a database of all physicians licensed, or who have applied for licensure, under § 1705A.

(b) Notwithstanding any other provision of law, member boards shall report to the Interstate Commission any public action or complaints against a licensed physician who has applied or received an expedited license through the Compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the Interstate Commission.

(d) Member boards may report any non-public complaint, disciplinary, or investigatory information not required by subsection (c) to the Interstate Commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the Interstate Commission or distributed by member boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The Interstate Commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

1709A. Joint investigations.

(a) Licensure and disciplinary records of physicians are deemed investigative.

(b) In addition to the authority granted to a member board by its respective Medical Practice Act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians

licensed by the member boards.

(c) A subpoena issued by a member state shall be enforceable in other member states.

(d) Member boards may share any investigative, litigation, or compliance materials in furtherance of any joint or individual investigation initiated under the Compact.

(e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

§ 1710A. Disciplinary actions.

(a) Any disciplinary action taken by any member board against a physician licensed through the Compact shall be deemed unprofessional conduct which may be subject to discipline by other member boards, in addition to any violation of the Medical Practice Act or regulations in that state.

(b) If a license granted to a physician by the member board in the state of principal license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the Medical Practice Act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and may:

(1) Impose the same or lesser sanction(s) against the physician so long as such sanctions are consistent with the Medical Practice Act of that state.

(2) Pursue separate disciplinary action against the physician under its respective Medical Practice Act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately without further action necessary by the other member board, for 90 days upon entry of the order by the disciplining board, to permit the member board to investigate the basis for the action under the Medical Practice Act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90 day suspension period in a manner consistent with the Medical Practice Act of that state.

§ 1711A. Interstate Medical Licensure Compact Commission.

(a) The member states hereby create the "Interstate Medical Licensure Compact Commission".

(b) The purpose of the Interstate Commission is the administration of the Interstate Medical Licensure Compact, which is a discretionary state function.

(c) The Interstate Commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers, and duties set forth in the Compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the Compact.

(d) The Interstate Commission shall consist of two voting representatives appointed by each member state who shall serve as Commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A Commissioner shall be any of the following:

(1) An Allopathic or osteopathic physician appointed to a member board.

(2) An Executive director, executive secretary, or similar executive of a member board.

(3) A Member of the public appointed to a member board.

(e) The Interstate Commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the Commission, including the election of officers. The chairperson may call additional meetings and shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(g) Each Commissioner participating at a meeting of the Interstate Commission is entitled to one vote. A majority of Commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission. A Commission shall not delegate a vote to another Commissioner. In the absence of its Commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d).

(h) The Interstate Commission shall provide public notice of all meetings and all meetings shall be open to the public. The Interstate Commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the Commissioners present that an open meeting would be likely to:

(1) Relate solely to the internal personnel practice and procedures of the Interstate Commission.

(2) Discuss matters specifically exempted from disclosure by federal statute.

(3) Discuss trade secrets, commercial, or financial information that is privileged or confidential.

(4) Involve accusing a person of a crime, or formally censuring a person.

(5) Discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.

(6) Discuss investigative records compiled for law enforcement purposes.

(7) Specifically relate to the participation in a civil action or other legal proceeding.

(i) The Interstate Commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.

(j) The Interstate Commission shall make its information and official records, to the extent not otherwise designated in the Compact or by its rules, available to the public for inspection.

(k) The Interstate Commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. When acting on behalf of the Interstate Commission, the executive committee shall oversee the administration of the Compact including enforcement and compliance with the provisions of the Compact, its bylaws and rules, and other such duties as necessary.

(l) The Interstate Commission shall establish other committees for governance and administration of the Compact.

§ 1712A. Powers and duties of the Interstate Commission.

The Interstate Commission shall have the following powers and duties:

(a) Oversee and maintain the administration of the Compact.

(b) Promulgate rules which shall be binding to the extent and in the manner provided for in the Compact.

(c) Issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the Compact, its bylaws, rules, and actions.

(d) Enforce compliance with Compact provisions, the rules promulgated by the Interstate Commission, and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process.

(e) Establish and appoint committees including an executive committee as required by §1711A(k), which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties.

(f) Pay, or provide for the payment of the expenses related to the establishment, organization, and ongoing activities of the Interstate Commission.

(g) Establish and maintain one or more offices.

(h) Borrow, accept, hire, or contract for services of personnel.

(i) Purchase and maintain insurance and bonds.

(j) Employ an executive director who shall have such powers to employ, select or appoint employees, agents, or consultants, and to determine their qualifications, define their duties, and fix their compensation.

(k) Establish personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel.

(l) Accept donations and grants of money, equipment, supplies, materials, and services and to receive, utilize, and dispose of it in a manner consistent with the conflict of interest policies established by the Interstate Commission.

(m) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use, any property, real, personal, or mixed.

(n) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

(o) Establish a budget and make expenditures.

(p) Adopt a seal and bylaws governing the management and operation of the Interstate Commission.

(q) Report annually to the legislatures and governors of the member states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the Interstate Commission.

(r) Coordinate education, training, and public awareness regarding the Compact, its implementation, and its operation.

(s) Maintain records in accordance with the bylaws.

(t) Seek and obtain trademarks, copyrights, and patents.

(u) Perform such functions as may be necessary or appropriate to achieve the purpose of the Compact.

§1713A. Finance powers.

(a) The Interstate Commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the Interstate Commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources.

(b) The aggregate annual assessment amount shall be allocated upon a formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon all member states.

(c) The Interstate Commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The Interstate Commission shall be subject to a yearly financial audit conducted by a certified or licensed accountant and the report of the audit shall be included in the annual report of the Interstate Commission.

§ 1714A. Organization and operation of the Interstate Commission.

(a) The Interstate Commission shall, by a majority of Commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact within 12 months of the first Interstate Commission meeting.

(b) The Interstate Commission shall elect or appoint annually from among its Commissioners a chairperson, a vice-chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission.

(c) Officers selected under subsection (b) shall serve without remuneration from the Interstate Commission. The officers and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(d) The liability of the executive director and employees of the Interstate Commission or representatives of the Interstate Commission, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The Interstate Commission is considered to be an instrumentality of the states for the purpose of any such action.

(e) Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

(f) The Interstate Commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result

from intentional or willful and wanton misconduct on the part of such person.

(g) To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgement, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of the Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

§ 1715A. Rulemaking functions of the Interstate Commission.

(a) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purpose of the Compact. Notwithstanding the foregoing, in the event the Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the Compact, or the powers granted hereunder, then such an action by the Interstate Commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the Interstate Commission shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act" of 2010, and subsequent amendments thereto.

(c) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Interstate Commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the Interstate Commission.

§ 1716A. Oversight of the Interstate Compact.

(a) The executive, legislative, and judicial branches of state government in each member state shall enforce the Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. The provisions of the Compact and the rules promulgated hereunder shall have standing as statutory law but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the Compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the Compact which may affect the powers, responsibilities or actions of the Interstate Commission.

(c) The Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, the Compact, or promulgated rules.

§1717A. Enforcement of Interstate Compact

(a) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the Compact.

(b) The Interstate Commission may, by majority vote of the Commissioners, initiate legal action in the United States Court for the District of Columbia, or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its principal offices, to enforce compliance with the provisions of the Compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

(c) The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or regulation of a profession.

§ 1718A. Default procedures.

(a) The grounds for default include failure of a member state to perform such obligations or responsibilities imposed upon it by the Compact, or the rules and bylaws of the Interstate Commission promulgated under the Compact.

(b) If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the Compact, or the bylaws or promulgated rules, the Interstate Commission shall:

(1) Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission shall specify the conditions by which the defaulting state must cure its default.

(2) Provide remedial training and specific technical assistance regarding the default.

(c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the Compact upon an affirmative vote of a majority of the Commissioners and all rights, privileges, and benefits conferred by the Compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

(d) Termination of membership in the Compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the Interstate Commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.

(e) The Interstate Commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.

(f) The member state which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.

(g) The Interstate Commission shall not bear any costs relating to any state that has been found to be in default, or which has been terminated from the Compact, unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(h) The defaulting state may appeal the action of the Interstate Commission by petitioning the United States District Court for the District of Columbia or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

§ 1719A. Dispute resolution.

(a) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the Compact and which may arise among member states or member boards.

(b) The Interstate Commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

§ 1720A. Member states, effective date and amendment.

(a) Any state is eligible to become a member of the Compact.

(b) The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than seven (7) states. Thereafter, it shall become effective and binding on a state upon enactment of the Compact into law by that state.

(c) The governors of non-member states, or their designees, shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the Compact by all states.

(d) The Interstate Commission may propose amendments to the Compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states until it is enacted into law by unanimous consent of the member states.

§1721A. Withdrawal.

(a) Once effective, the Compact shall continue in force and remain binding upon every member state, provided that a member state may withdraw from the Compact by specifically repealing the statute which enacted the Compact into law.

(b) Withdrawal from the Compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing the Compact in the withdrawing state.

(d) The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under subsection (c).

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing date reenacting the Compact or upon such later date as determined by the Interstate Commission.

(g) The Interstate Commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who designated the withdrawing member state as the state of principal license.

§1722A. Dissolution.

(a) The Compact shall dissolve effective upon the date of the withdrawal or default of the member state which reduces the membership of the Compact to 1 member state.

(b) Upon the dissolution of the Compact, the Compact becomes void and has no further effect. The business and affairs of the Interstate Commission shall be concluded, and surplus funds shall be distributed in accordance with the bylaws.

§1723A. Severability and Construction.

(a) The provisions of the Compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

(b) The provisions of the Compact shall be liberally construed to effectuate its purposes.

(c) Nothing in the Compact shall be construed to prohibit the applicability of other interstate compacts to which the member states are members.

§ 1724A. Binding effect of Compact and other laws.

(a) Nothing in this chapter prevents the enforcement of any other law of a member state that is not inconsistent with the Compact.

(b) All laws in a member state in conflict with the Compact are superseded to the extent of the conflict. All lawful

actions of the Interstate Commission, including all rules and bylaws promulgated by the Commission, are binding upon the member states.

(c) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(d) In the event any provision of the Compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

Section 21. Sections 1-19 of this Act take effect on July 1, 2021 Section 20 of this Act, entering the State of Delaware into the Interstate Medical Licensure Compact, shall take effect on July 1, 2022. Nothing in this Act shall be interpreted as affecting or invalidating any health-care services provided through telehealth or telemedicine prior to effective date of this Act.

SYNOPSIS

This Act, known as the Telehealth Access Preservation and Modernization Act of 2021, continues and enhances Delawareans' access to telehealth and telemedicine services and, through the adoption of the Interstate Medical Licensure Compact, ensures that telehealth services can be provided through qualified medical practitioners in a streamlined and efficient pathway to licensure that meets the health care delivery system needs of the 21st century.

With respect to telemedicine and telehealth, this Act consolidates the existing law relating to telehealth within a single new chapter applicable to all health-care providers authorized to practice telemedicine and participate in telehealth and makes permanent the telehealth flexibilities put in place for the Covid-19 pandemic. The Act carries through many of the changes embodied in the Covid-19 telehealth legislation passed by the 150th General Assembly in 2020 (HS 1 for HB 348 with HA1, signed 7/17/20), which will otherwise expire on July 1, 2021. The changes made in HB 348 that are made permanent by this Act include:

1. Removing all existing Title 24 statutory requirements that patients present in-person before telemedicine services may be 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 and telehealth is excused only under circumstances rendering an in-person examination impractical or when there is already an existing relationship established.

2. Modernizing the modality of permissible telemedicine and telehealth services; instead of limiting telehealth to interactions that must involve both audio and visual technology; this Act preserves flexibility for situations where patients do not have access to broadband connections or smartphones and need to consult with a physician by landline or audio-only cell phone, subject to existing professional standard of care requirements. Audio and visual visits will continue to be the preferable method for delivery of telehealth and telemedicine services.

This Act also consolidates telehealth and telemedicine scope of practice, which currently appear in each separate chapters of Title 24 pertaining to regulated practitioners in order to provide consistent telehealth practice across license categories. This is increasingly important for facilitating integrated health-care services delivery, but it does not limit any of the existing authority of the State's professional licensing boards in Title 24 to regulate their respective licensed professions and occupations.

This Act adopts the Interstate Medical Licensure Compact (IMLC) in Delaware, joining the 29 States that are already members of the IMLC, including many of our neighboring states (Maryland is a member; Pennsylvania is in process of implementing the Compact; New Jersey has introduced IMLC legislation). https://www.imlcc.org/participating-states/

The long-term benefits of telehealth are best realized when accompanied by cross-state medical licensure capabilities available through adoption of the Interstate Medical Licensure Compact. The Compact creates a voluntary, expedited pathway to state licensure for physicians who want to practice medicine in multiple states. An eligible physician can qualify to practice medicine in multiple states by completing one application within the Compact, and receipt of separate licenses from each state in which the physician intends to practice.

The Compact does not change the scope of Delaware's authority to regulate physician practice under the existing Medical Practice Act. It simply creates another pathway for licensure.