SPONSOR: Rep. Bentz & Rep. Schwartzkopf & Rep. Heffernan & Rep. K. Johnson & Sen. S. McBride & Sen. Townsend Reps. Baumbach, Briggs King, Griffith, Mitchell, Morrison, Osienski, Michael Smith, K. Williams, Wilson-Anton; Sens. Ennis, Hansen, Mantzavinos, Poore, Sokola, Walsh

HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

HOUSE BILL NO. 334
AS AMENDED BY
HOUSE AMENDMENT NO. 2
AND
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 24 RELATING TO PRACTICE BY TELEHEALTH AND TELEMEDICINE.

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

Section 1. Amend Chapter, 60, Title 24 of the Delaware Code by making insertions as shown by underlines and deletions as shown by strike through as follows:

§ 6002. Authorization to practice by telehealth and telemedicine.

(a) Health-care providers licensed by the following professional licensing 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 Licensure and Discipline 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.

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(b) A professional licensing board listed in subsection (a) of this section may promulgate or revise rules applicable to health-care providers under the professional licensing board's jurisdiction ~~in order~~ to facilitate the provision of telehealth and telemedicine services consistent with this chapter.

(c) A health-care provider licensed in a state that has not adopted an interstate compact applicable to the health-care provider may only provide telehealth under this chapter if the health-care provider obtains an interstate telehealth registration from the Division of Professional Regulation. A health-care provider is eligible for an interstate telehealth registration only if all of the following requirements are continuously met:

(1) The health-care provider holds a valid, active license issued by another state's licensing authority or board.

(2) The health-care provider is licensed in good standing in all states in which the health-care provider is licensed.

(3) The health-care provider is not the subject of an administrative complaint which is currently pending before another state's licensing authority or board.

(4) The health-care provider is not currently under investigation by another state's licensing authority or board, or any authority in this State.

(d) A health-care provider who obtains an interstate telehealth registration under subsection (c) of this section consents and agrees to be subject to all of the following:

(1) The law of this State regarding the health-care provider's profession in this State, including all provisions of Title 11, Title 16, and Title 24, and all regulations of this State.

(2) The judicial system of this State, which includes consenting and agreeing to be subject to the personal jurisdiction of the courts of this State under Chapter 31 of Title 10.

(3) All profession conduct rules and standards incorporated into the practice act for the health-care provider's profession.

(4) The jurisdiction of the applicable licensing board in this State, including the board's complaint, investigation, and hearing process. Any discipline imposed by a licensing board in this State may be reported to the applicable National Practitioner Database, as well as to every jurisdiction in which the health-care provider holds a license.

§ 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 all of 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 contraindications, 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.