Compilation of State Laws and Regulations Addressing Teledentistry or Telehealth Conducted by Oral Health Practitioners

States A-I

This document is a compilation of state statutes and regulations that address teledentistry or telehealth conducted by oral health practitioners. Each state's laws and regulations may be divided into three parts: requirements and permissible practices, Medicaid reimbursement and private payer reimbursement. Some states do not address all three of these topic areas and as a result, a state may have fewer sections.

Because this analysis only focuses on laws as they apply to oral health care providers, it may not include telehealth policies that apply to other groups of health care practitioners.

Contents

Alabama 4
Alaska 5
Requirements and Permissible Practices 5
Medicaid Reimbursement 5
Private Payer Reimbursement 7
Arizona 9
Requirements and Permissible Practices 9
Medicaid Reimbursement 10
Arkansas 11
Requirements and Permissible Practices 11
Medicaid Reimbursement and Private Payer Reimbursement 13
California 17
Requirements and Permissible Practices 17
Medicaid Reimbursement 17
Private Payer Reimbursement 30
Colorado 30
Requirements and Permissible Practices 35
Medicaid Reimbursement 37
Private Payer Reimbursement 39
Connecticut 42
Requirements, Permissible Practices and Medicaid Reimbursement 42
Private Payer Reimbursement 45
Delaware 48
Requirements and Permissible Practices 48
Private Payer Reimbursement 51
District of Columbia 54
Medicaid Reimbursement 54
Private Payer Reimbursement 60
Florida 62
Requirements and Permissible Practices 62
Medicaid Reimbursement 64
Private Payer Reimbursement 65
Georgia 66
Private Payer Reimbursement 66
Hawaii 69
Medicaid Reimbursement 69
Third Party Reimbursement 71
Idaho 75
Requirements and Permissible Practices 75
Medicaid Reimbursement 78
Illinois 79
Requirements and Permissible Practices 79
Private Payer Reimbursement 81
Indiana 84
Requirements and Permissible Practices 84

Research data are current as of September 2021. This document is intended for educational purposes only and should not be considered legal advice. Please contact Phil Mauller at maullerp@adea.org with any updates or information that may be relevant to this document.

Private Payer Reimbursement 89
Iowa 92
Requirements and Permissible Practices 92
Medicaid Reimbursement 94
Private Payer Reimbursement 94

Research data are current as of September 2021. This document is intended for educational purposes only and should not be considered legal advice. Please contact Phil Mauller at maullerp@adea.org with any updates or information that may be relevant to this document.

Alabama

Alabama statutes and regulations do not address teledentistry or telehealth conducted by oral health professionals. The Center for Connected Health Policy has assembled an overview of telehealth laws in the state.

Alaska

Requirements and Permissible Practices

12 AAC 02.600. Application for placement on the telemedicine business registry; changes of information

(a) To be registered on the telemedicine business registry established and maintained under AS 44.33.381, and before providing telemedicine services to a recipient located in this state, a business performing telemedicine services must submit to the department (1) a complete registration on a form provided by the department; the registration must include the business's name, address, and contact information; (2) a copy of the business's valid business license issued under AS 43.70 and 12 AAC 12; and (3) the applicable fee established in 12 AAC 02.106. (b) A business performing telemedicine services must register with the name it is using to perform telemedicine services in this state. A business operating under multiple names to perform telemedicine services shall file a separate registration for each name. (c) If the name, address, or contact information of a business on the telemedicine business registry changes, the business performing telemedicine services must submit to the department, not later than 30 days after the change or termination, (1) a complete report, on a form provided by the department, of each change; and (2) the applicable fee established in 12 AAC 02.106. (d) A business that fails to comply timely with (c) of this section may not perform telemedicine services in this state and must submit a new application under (a) of this section before resuming the provision of telemedicine services to a recipient located in this state. (e) If a business terminates the performance of telemedicine services in this state, the business shall notify the department, requesting that the department remove the business from the telemedicine business registry. If a business gives notification under this subsection, the business must submit a new application under (a) of this section before resuming the provision of telemedicine services to a recipient located in this state. (f) In this section, "telemedicine services" has the meaning given in AS 44.33.381.

Medicaid Reimbursement

Alaska Statutes Sec. 47.05.270. Medical assistance reform program.

(a) The department shall adopt regulations to design and implement a program for reforming the state medical assistance program under AS 47.07. The reform program must include

…

(3) expanding the use of telehealth for primary care, behavioral health, and urgent care;

…

(c) The department shall identify the areas of the state where improvements in access to telehealth would be most effective in reducing the costs of medical assistance and improving access to health care services for medical assistance recipients. The department shall make efforts to improve access to telehealth for recipients in those locations. The department may enter into agreements with Indian Health Service providers, if necessary, to improve access by medical assistance recipients to telehealth facilities and equipment.

…

(e) In this section, "telehealth" means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of health care data through audio, visual, or data communications, performed over two or more locations between providers who are physically separated from the recipient or from each other or between a provider and a recipient who are physically separated from each other.

7 AAC 110.620. Scope

(a) The department will pay for medical services furnished through telemedicine applications as an alternative to traditional methods of delivering services to Medicaid recipients as provided in AS 47.07.

(b) For a provider to receive payment under 7 AAC 110.620 - 7 AAC 110.639, the provider's use of telemedicine applications must comply with the standards set out in AS 47.07 and 7 AAC 105 - 7 AAC 160 for the medical service provided by the type of provider, including

(1) provisions that affect the efficiency, economy, and quality of service; and

(2) coverage limitations.

7 AAC 110.625. Telemedicine applications; limitations

(a) The department will pay a provider for a telemedicine application if the provider provided the medical services through one of the following methods of delivery in the specified manner:

(1) live or interactive; to be eligible for payment under this paragraph, the service must be provided through the use of camera, video, or dedicated audio conference equipment on a real-time basis; medical services provided by a telephone that is not part of a dedicated audio conference system or by a facsimile machine are not eligible for payment under this paragraph;

(2) store-and-forward; to be eligible for payment under this paragraph, the service must be provided through the transference of digital images, sounds, or previously recorded video from one location to another to allow a consulting provider to obtain information, analyze it, and report back to the referring provider;

(3) self-monitoring or testing; to be eligible for payment under this paragraph, the services must be provided by a telemedicine application based in the recipient's home, with the provider only indirectly involved in the provision of the service.

(b) The department will only make a payment for a telemedicine application if the service is limited to

(1) an initial visit;

(2) a follow-up visit;

(3) a consultation made to confirm a diagnosis;

(4) a diagnostic, therapeutic, or interpretive service;

(5) a psychiatric or substance abuse assessment;

(6) psychotherapy; or

(7) pharmacological management services on an individual recipient basis.

7 AAC 110.630. Conditions for payment

(a) The department will pay for telemedicine applications provided by a treating, consulting, presenting, or referring provider for a medical service covered by Medicaid and provided within the scope of the provider's license.

(b) A treating or consulting provider must use applicable modifiers as described in 7 AAC 145.050 for billing for a telemedicine application.

(c) A presenting, referring, or consulting provider is subject to the conditions for payment that are described in 7 AAC 145.005.

(d) A presenting provider is only eligible to receive Medicaid payment for a live or interactive telemedicine application as described in 7 AAC 110.625(a)(1).

7 AAC 110.635. Exclusions

(a) The department will not pay for the following services provided by telemedicine application:

…

(3) durable medical equipment services;

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(4) transportation services;
(5) accommodation services;
…
(b) The department will pay only for professional services for a telemedicine application of service. The department will not pay for the use of technological equipment and systems associated with a telemedicine application to render the service.

7 AAC 110.639. Definitions In **7 AAC 110.620 - 7 AAC 110.639**
(1) "consulting provider" means a provider who evaluates the recipient and appropriate medical data or images through a telemedicine mode of delivery upon recommendation of the referring provider;
(2) "presenting provider" means a provider who
(A) introduces a recipient to a consulting provider for examination, observation, or consideration of medical information; and
(B) may assist in the telemedicine consultation;
(3) "referring provider" means a provider who evaluates a recipient, determines the need for a consultation, and arranges the services of a consulting provider for the purpose of diagnosis or treatment;
(4) "telemedicine" means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of medical data, audio, visual, or data communications that are performed over two or more locations between providers who are physically separated from the recipient or from each other.

7 AAC 145.270. Telemedicine payment rates
(a) The department will pay for a service rendered by a consulting or referring provider by a telemedicine application in accordance with 7 AAC 145.020.
(b) Payment to the presenting provider is limited to the rate established for brief evaluation and management of an established patient.
(c) The department will pay the receiving provider in the same manner as payment is made for the same service provided through traditional mode of delivery, not to exceed 100 percent of the rate established under 7 AAC 145.050.
(d) In this section, "consulting provider," "presenting provider," "referring provider," and "telemedicine" have the meanings given in 7 AAC 110.639.

Private Payer Reimbursement

Sec. 21.12.050. Health and health care insurance defined.
(a) Health insurance is insurance of human beings (1) against bodily injury, disablement, or death by accident or accidental means; (2) against the resulting expenses of the injury, disablement, or death; (3) against disablement or expense resulting from sickness or childbirth; (4) against expense incurred in prevention of sickness; (5) for dental care; and (6) including every insurance that applies to injury, disablement, or death. Transaction of health insurance includes disability insurance and stop-loss insurance but does not include workers' compensation insurance. Health care insurance described in (b) of this section is a type of health insurance under this subsection.
(b) Health care insurance means that part of health insurance that provides, delivers, arranges for, pays for, or reimburses any of the costs of medical care.
Sec. 21.42.422. Coverage for telehealth.

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(a) A health care insurer that offers, issues for delivery, or renews in the state a health care insurance plan in the group or individual market shall provide coverage for benefits provided through telehealth by a health care provider licensed in this state and may not require that prior in-person contact occur between a health care provider and a patient before payment is made for covered services.

(b) In this section,

(1) "health care insurer" means a person transacting the business of health care insurance, including an insurance company licensed under AS 21.09, a hospital or medical service corporation licensed under AS 21.87, a fraternal benefit society licensed under AS 21.84, a health maintenance organization licensed under AS 21.86, the Comprehensive Health Insurance Association described in AS 21.55.010, a multiple employer welfare arrangement, a church plan, and a governmental plan, except for a nonfederal governmental plan that elects to be excluded under 42 U.S.C. 300gg-21(a)(2) (Health Insurance Portability and Accountability Act of 1996);

(2) "telehealth" has the meaning given in AS 47.05.270(e).

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Arizona

Requirements and Permissible Practices

AZ ST 32-1201. Definitions

…

24. “Teledentistry” means the use of data transmitted through interactive audio, video or data communications for the purposes of examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by dentists and dental providers in settings permissible under this chapter or specified in rules adopted by the board.

AZ ST 32-1291.01. Expanded function dental assistants; training and examination requirements; duties

…

C. An expanded function dental assistant may place interim therapeutic restorations under the general supervision and direction of a licensed dentist following a consultation conducted through teledentistry.

…

AZ ST 36-3611. Definitions

In this article, unless the context otherwise requires:

1. “Board” means the state board of dental examiners.
2. “Dental provider” means a dental hygienist, affiliated practice dental hygienist or dental assistant who is licensed pursuant to title 32, chapter 11.
3. “Dentist” means a person who is licensed in the general practice of dentistry pursuant to title 32, chapter 11.
4. “Health care decision maker” has the same meaning prescribed in section 12-2801.
5. “Teledentistry” means the use of data transmitted through interactive audio, video or data communications for the purposes of examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by dentists and dental providers in settings permissible under title 32, chapter 11 or specified in rules adopted by the board.

36-3612. Delivery of care through teledentistry; requirements; exceptions

A. Except as provided in subsection E of this section, before a dentist or dental provider delivers care through teledentistry, the dentist or dental provider shall obtain verbal or written informed consent from the patient or the patient’s health care decision maker. If the informed consent is obtained verbally, the dentist or dental provider shall document the consent on the patient’s record.

B. In any teledentistry interaction, the patient is entitled to all existing confidentiality protections pursuant to section 12-2292.

C. All reports resulting from a teledentistry consultation are part of a patient’s dental record as prescribed in section 32-1264.

D. In any teledentistry interaction, the dissemination of any images or information identifiable to a specific patient for research or educational purposes may not occur without the patient’s consent, unless authorized by state or federal law.

E. The consent requirements of this section do not apply to the transmission of diagnostic images to another health care provider or dental specialist or the reporting of diagnostic test results by that specialist.

36-3613. Scope of article

This article applies to the practice of teledentistry within this state. This article does not expand, reduce or otherwise amend the licensing requirements of title 32, chapter 11 for dentists or dental providers.

Medicaid Reimbursement

36-2907. Covered health and medical services; modifications; related delivery of service requirements; definition

A. Subject to the limitations and exclusions specified in this section, contractors shall provide the following medically necessary health and medical services:

…

7. Early and periodic health screening and diagnostic services as required by section 1905(r) of title XIX of the social security act for members who are under twenty-one years of age.

…

36-2907.13. Arizona health care cost containment system; teledentistry

In addition to services provided pursuant to section 36-2907, subsection A, paragraph 7, the Arizona health care cost containment system administration shall implement teledentistry services for enrolled members who are under twenty-one years of age.

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Arkansas

Requirements and Permissible Practices

17-80-401. Title.

This subchapter shall be known and may be cited as the "Telemedicine Act".

17-80-402. Definitions. as amended by SB 703, HB 1063, and HB 1068

As used in this subchapter:

(1) "Distant site" means the location of the healthcare professional delivering services through ftelemedicine at the time the services are provided;

(2) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(3) (A) "Originating site" means a site at which a patient is located at the time healthcare services are provided to him or her by means of telemedicine;

(B) "Originating site" includes the home of a patient;

(4) "Professional relationship" means at minimum a relationship established between a healthcare professional and a patient when:

(A) The healthcare professional has previously conducted an in-person examination of the patient and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;

(B) The healthcare professional personally knows the patient and the patient's relevant health status through an ongoing personal or professional relationship and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;

(C) The treatment is provided by a healthcare professional in consultation with, or upon referral by, another healthcare professional who has an ongoing professional relationship with the patient and who has agreed to supervise the patient's treatment, including follow-up care;

(D) An on-call or cross-coverage arrangement exists with the patient's regular treating healthcare professional or another healthcare professional who has established a professional relationship with the patient;

(E)(i) A relationship exists in other circumstances as defined by rule of the Arkansas State Medical Board for healthcare professionals under its jurisdiction and their patients; or

(ii) A relationship established under rules of the Arkansas State Medical Board may be utilized for telehealth certification; or

(F) A relationship exists in other circumstances as defined by rule of a licensing or certification board for other healthcare professionals under the jurisdiction of the appropriate board and their patients if the rules are no less restrictive than the rules of the Arkansas State Medical Board;

(G)(i) The healthcare professional who is licensed in Arkansas has access to a patient's personal health record maintained by a healthcare professional and uses any technology deemed appropriate by the healthcare professional, including the telephone, with a patient located in Arkansas to diagnose, treat, and if clinically appropriate, prescribe a noncontrolled drug to the patient.

(ii) For purposes of this subchapter, a health record may be created with the use of telemedicine and consists of relevant clinical information required to treat a patient, and is reviewed by the healthcare professional who meets the same standard of care for a telemedicine visit as an in-person visit;

(5) "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient

at an originating site that is transmitted to a healthcare professional at a distant site for use in the treatment and management of medical conditions that require frequent monitoring;
(6) "Store-and-forward technology" means the asynchronous transmission of a patient's medical information from a healthcare professional at an originating site to a healthcare professional at a distant site; and
(7)(A) "Telemedicine" means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient.

(B) "Telemedicine" includes store-and-forward technology and remote patient monitoring.

(C) "Telemedicine" does not include the use of audio-only electronic technology by a physician to renew a written certification that was previously issued to the same patient; or

(8) "Telehealth certification" means the electronic assessment of a patient by a practitioner in connection with an application for a registry identification card under § 5 of Arkansas Constitution, Amendment 98, also known as the "Arkansas Medical Marijuana Amendment of 2016".

17-80-403. Establishment of professional relationship. as amended by HB 1063
(a)(1) A healthcare professional at a distant site shall not utilize telemedicine with respect to a patient located in Arkansas unless a professional relationship exists between the healthcare professional and the patient or the healthcare professional otherwise meets the requirements of a professional relationship as defined in § 17-80-402.

(2) The existence of a professional relationship is not required in the following circumstances:

(A) Emergency situations where the life or health of the patient is in danger or imminent danger; or

(B) Simply providing information of a generic nature, not meant to be specific to an individual patient.

(b) If the establishment of the professional relationship is permitted via telemedicine under § 17-80-402(4)(E) or § 17-80-402(4)(F), telemedicine may be used to establish the professional relationship only for situations in which the standard of care does not require an in-person encounter.
(c) "Professional relationship" does not include a relationship between a healthcare professional and a patient established only by the following:

(1) An internet questionnaire;
(2) An email message;
(3) Patient-generated medical history;
(4) Text messaging;
(5) A facsimile machine; or
(6) Any combination of means listed in subdivisions 7 (c)(1)-(5) of this section.

17-80-404. Appropriate use of telemedicine.
(a)(1) A professional relationship shall be established in compliance with § 17-80-403 to provide healthcare services through telemedicine.

(2) Once a professional relationship is established, a healthcare professional may provide healthcare services through telemedicine, including interactive audio, if the healthcare services are within the scope of practice for which the healthcare professional is licensed or certified and the healthcare services otherwise meet the requirements of this subchapter.

(3) A licensing or certification board shall not permit the use of telemedicine in a manner that is less restrictive than the use of telemedicine authorized by the Arkansas State Medical Board.

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(b)(1) Regardless of whether the healthcare professional is compensated for the healthcare services, if a healthcare professional seeks to provide healthcare services to a minor through telemedicine in a school setting and the minor is enrolled in the Arkansas Medicaid Program, the healthcare professional shall:

(A) Be the designated primary care provider of the minor;

(B) Have a cross-coverage arrangement with the designated primary care provider of the minor; or

(C) Have authorization from the designated primary care provider of the minor.

(2) If the minor does not have a designated primary care provider, subdivision (b)(1) of this section does not apply.

(3) If a minor is enrolled in a health benefit plan as defined in § 23-79-1601 that is not part of the Arkansas Medicaid Program, the terms and conditions of the health benefit plan shall control.

(4) The designation of a primary care provider for a minor remains the right of a parent or legal guardian in accordance with § 20-9-601 et seq.

(c) Healthcare services provided by telemedicine, including without limitation a prescription through telemedicine, shall be held to the same standard of care as healthcare services provided in person.

(d)(1) A healthcare professional who is treating patients in Arkansas through telemedicine shall be fully licensed or certified to practice in Arkansas and is subject to the rules of the appropriate state licensing or certification board.

(2) The requirement in subdivision (d)(1) of this section does not apply to the acts of a healthcare professional located in another jurisdiction who provides only episodic consultation services.

(e) A healthcare professional shall follow applicable state and federal law, rules, and regulations for:

(1) Informed consent;

(2) Privacy of individually identifiable health information;

(3) Medical recordkeeping and confidentiality; and

(4) Fraud and abuse.

17-80-405. Liability — Noncompliance.

(a) If a decision is made to provide healthcare services through telemedicine, the healthcare professional accepts responsibility and liability for the care of the patient.

(b) Noncompliance with this subchapter is a violation of the practice act of the healthcare professional.

17-80-406. Rules.

State licensing and certification boards for a healthcare professional shall amend their rules where necessary to comply with this subchapter.

17-80-407. Construction.

This subchapter does not:

(1) Alter existing state law or rules governing a healthcare professional's scope of practice; or

(2) Authorize drug-induced, chemical, or surgical abortions performed through telemedicine.

Medicaid Reimbursement and Private Payer Reimbursement

23-79-1601. Definitions. as amended by HB 1063 and HB 1068

As used in this subchapter:

(1) "Distant site" means the location of the healthcare professional delivering healthcare services through telemedicine at the time the services are provided;

(2)(A) "Health benefit plan" means:

(i) An individual, blanket, or group plan, policy, or contract for healthcare services issued or delivered by an insurer, health maintenance organization, hospital medical service corporation, or self-insured governmental or church plan in this state; and

(ii) Any health benefit program receiving state or federal appropriations from the State of Arkansas, including the Arkansas Medicaid Program, the Health Care Independence Program [expired], commonly referred to as the "Private Option", and the Arkansas Works Program, or any successor program.

(B) "Health benefit plan" includes:

(i) Indemnity and managed care plans; and

(ii) Nonfederal governmental plans as defined in 29 U.S.C. § 1002(32), as it existed on January 1, 2015.

(C) "Health benefit plan" does not include:

(i) Disability income plans;

(ii) Credit insurance plans;

(iii) Insurance coverage issued as a supplement to liability insurance;

(iv) Medical payments under automobile or homeowners insurance plans;

(v) Health benefit plans provided under Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(vi) Plans that provide only indemnity for hospital confinement;

(vii) Accident-only plans;

(viii) Specified disease plans; or

(ix) Long-term-care-only plans;

(x) Stand-alone dental or vision benefit plans;

(3) "Healthcare professional" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(4)(A) "Originating site" means a site at which a patient is located at the time healthcare services are provided to him or her by means of telemedicine;

(B) "Originating site" includes the home of a patient;

(5) "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a healthcare professional at a distant site for use in the treatment and management of medical conditions that require frequent monitoring;

(6) "Store-and-forward technology" means the asynchronous transmission of a patient's medical information from a healthcare professional at an originating site to a healthcare professional at the distant site; and

(7)(A) "Telemedicine" means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient.

(B) "Telemedicine" includes store-and-forward technology and remote patient monitoring.

(C) For the purposes of this subchapter, "telemedicine" does not include the use of:

(i)(a) Audio-only communication, unless the audio-only communication is real time, interactive, and substantially meets the requirements for a healthcare service that would otherwise be covered by the health benefit plan.

(b) As with other medical services covered by a health benefit plan, documentation of the engagement between patient and provider via audio-only communication shall be placed in

the medical record addressing the problem, content of conversation, medical decision-making, and plan of care after the contact.

(c) The documentation described in subdivision (7)(C)(i)(b) of this section is subject to the same audit and review process required by payers and governmental agencies when requesting documentation of other care delivery such as in-office or face-to-face visits;

(ii) A facsimile machine;

(iii) Text messaging; or

(iv) Email.

23-79-1602. Coverage for telemedicine.

(a)(1) This subchapter applies to all health benefit plans delivered, issued for delivery, reissued, or extended in Arkansas on or after January 1, 2016, or at any time when any term of the health benefit plan is changed or any premium adjustment is made thereafter.

(2) Notwithstanding subdivision (a)(1) of this section, this subchapter applies to the Arkansas Medicaid Program on and after January 1, 2016.

(b) A healthcare professional providing a healthcare service provided through telemedicine shall comply with the requirements of the Telemedicine Act, § 17-80-401 et seq.

(c)(1) A health benefit plan shall provide coverage and reimbursement for healthcare services provided through telemedicine on the same basis as the health benefit plan provides coverage and reimbursement for health services provided in person, unless this subchapter specifically provides otherwise.

(2) A health benefit plan is not required to reimburse for a healthcare service provided through telemedicine that is not comparable to the same service provided in person.

(3) A health benefit plan may voluntarily reimburse for healthcare services provided through means described in § 23-79-1601(7)(C).

(d)(1) A health benefit plan shall provide a reasonable facility fee to an originating site operated by a healthcare professional or a licensed healthcare entity if the healthcare professional or licensed healthcare entity is authorized to bill the health benefit plan directly for healthcare services.

(2) The combined amount of reimbursement that a health benefit plan allows for the compensation to the distant site and the originating site shall not be less than the total amount allowed for healthcare services provided in person.

(3) Payment for healthcare services provided through telemedicine shall be provided to the distant site and the originating site upon submission of the appropriate procedure codes.

(4) This section does not:

(A) Prohibit a health benefit plan from paying a facility fee to a provider at the distant site in addition to a fee paid to the healthcare professional; or

(B) Require a health benefit plan to pay more for a healthcare service provided through telemedicine than would have been paid if the healthcare service was delivered in person.

(e) A health benefit plan shall not impose on coverage for healthcare services provided through telemedicine:

(1) An annual or lifetime dollar maximum on coverage for services provided through telemedicine other than an annual or lifetime dollar maximum that applies to the aggregate of all items and services covered;

(2) A deductible, copayment, coinsurance, benefit limitation, or maximum benefit that is not equally imposed upon all healthcare services covered under the health benefit plan; or

(3) A prior authorization requirement for services provided through telemedicine that exceeds the prior authorization requirement for in-person healthcare services under the health benefit plan.

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(4) A requirement for a covered person to choose any commercial telemedicine service provider or a restricted network of telemedicine-only providers rather than the covered person's regular doctor or provider of choice; or

(5) A copayment, coinsurance, or deductible that is not equally imposed upon commercial telemedicine providers as those imposed on network providers.

(f) This subchapter does not prohibit a health benefit plan from:

(1) Limiting coverage of healthcare services provided through telemedicine to medically necessary services, subject to the same terms and conditions of the covered person's health benefit plan that apply to services provided in person; or

(2)

(A) Undertaking utilization review, including prior authorization, to determine the appropriateness of healthcare services provided through telemedicine, provided that:

(i) The determination of appropriateness is made in the same manner as determinations are made for the treatment of any illness, condition, or disorder covered by the health benefit plan whether the service was provided in-person or through telemedicine; and

(ii) All adverse determinations for healthcare services, medications, or equipment prescribed by a physician are made by a physician who possesses a current and valid unrestricted license to practice medicine in Arkansas.

(B) Utilization review shall not require prior authorization of emergent telemedicine services.

(g)

(1) A health benefit plan may adopt policies to ensure that healthcare services provided through telemedicine submitted for payment comply with the same coding, documentation, and other requirements necessary for payment as an in-person service other than the in-person requirement.

(2) If deemed necessary, the State Insurance Department may promulgate rules containing additional standards and procedures for the utilization of telemedicine to provide healthcare services through health benefit plans if the additional standards and procedures do not conflict with this subchapter or § 17-80-117 and are applied uniformly by all health benefit plans.

(h) A health benefit plan shall not prohibit a healthcare professional from charging a patient enrolled in a health benefit plan for healthcare services provided by audio-only communication that are not reimbursed under the health benefit plan.

California

Requirements and Permissible Practices

Cal.Bus. & Prof.Code § 138 Requirement that licentiates provide notice of licensing to clients or customers

Every board in the department, as defined in Section 22, shall initiate the process of adopting regulations on or before June 30, 1999, to require its licensees, as defined in Section 23.8, to provide notice to their clients or customers that the practitioner is licensed by this state. A board shall be exempt from the requirement to adopt regulations pursuant to this section if the board has in place, in statute or regulation, a requirement that provides for consumer notice of a practitioner's status as a licensee of this state.

Cal.Bus. & Prof.Code § 1611.3

§ 1611.3 Compliance with provisions requiring licentiates to give notice of licensing to clients or customers; notification and contents of notice

The board shall require that the notice required under Section 138 includes a provision that the board is the entity that regulates dentists and dental assistants and provides the telephone number and internet website of the board. The board shall require the notice to be posted in a conspicuous location accessible to public view and accessible electronically for patients receiving dental services through telehealth.

Cal.Bus. & Prof.Code § 1683.1

§ 1683.1. Provision of dental services through telehealth; provision of information regarding dentist providing services

(a) Any individual, partnership, corporation, or other entity that provides dental services through telehealth shall make available the name, telephone number, practice address, and California state license number of any dentist who will be involved in the provision of services to a patient prior to the rendering of services and when requested by a patient.

(b) A violation of this section shall constitute unprofessional conduct.

Cal.Bus. & Prof.Code § 1684.5

§ 1684.5 Treatment of patient not of record; unprofessional conduct; procedures allowed by dental auxiliary; written notification that care was provided at direction of authorizing dentist; limits on number of dental auxiliaries dentist may supervise; application of section; exceptions

(a) In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for any dentist to perform or allow to be performed any treatment on a patient who is not a patient of record of that dentist. A dentist may, however, after conducting a preliminary oral examination, require or permit any dental auxiliary to perform procedures necessary for diagnostic purposes, provided that the procedures are permitted under the auxiliary's authorized scope of practice. Additionally, a dentist may require or permit a dental auxiliary to perform all of the following duties

prior to any examination of the patient by the dentist, provided that the duties are authorized for the particular classification of dental auxiliary pursuant to Article 7 (commencing with Section 1740):

(1) Expose emergency radiographs upon direction of the dentist.

(2) If the dental auxiliary is a registered dental assistant in extended functions, a registered dental hygienist, or a registered dental hygienist in alternative practice, determine and perform radiographs for the specific purpose of aiding a dentist in completing a comprehensive diagnosis and treatment plan for a patient using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist pursuant to Sections 1753.55, 1910.5, and 1926.05. A dentist is not required to review patient records or make a diagnosis using telehealth.

…

Cal.Bus. & Prof.**Code § 1753.55**

(a) A registered dental assistant in extended functions is authorized to perform the additional duties as set forth in subdivision (b) pursuant to the order, control, and full professional responsibility of a supervising dentist, if the licensee meets one of the following requirements:

(1) Is licensed on or after January 1, 2010.

(2) Is licensed prior to January 1, 2010, has successfully completed a board-approved course in the additional procedures specified in paragraphs (1), (2), (5), and (7) to (11), inclusive, of subdivision (b) of Section 1753.5, and passed the examination as specified in Section 1753.4.

(b)(1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental assistant in extended functions shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:

(A) In a dental office setting.

(B) In public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.

(2) Place protective restorations, which for this purpose are identified as interim therapeutic restorations, and defined as a direct provisional restoration placed to stabilize the tooth until a licensed dentist diagnoses the need for further definitive treatment. An interim therapeutic restoration consists of the removal of soft material from the tooth using only hand instrumentation, without the use of rotary instrumentation, and subsequent placement of an adhesive restorative material. Local anesthesia shall not be necessary for interim therapeutic restoration placement. Interim therapeutic restorations shall be placed only in accordance with both of the following:

(A) In either of the following settings:

(i) In a dental office setting, under the direct or general supervision of a dentist as determined by the dentist.

(ii) In public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.

(B) After the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.

(c) The functions described in subdivision (b) may be performed by a registered dental assistant in extended functions only after completion of a program that includes training in performing those functions, or after providing evidence, satisfactory to the board, of having completed a board-approved course in those functions.

(d) No later than January 1, 2018, the board shall adopt regulations to establish requirements for courses of instruction for the procedures authorized to be performed by a registered dental assistant in extended functions pursuant to this section using the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 172 through the Office of Health Planning and Development. The board shall submit to the committee proposed regulatory language for the curriculum for the Interim Therapeutic Restoration to the committee for the purpose of promulgating regulations for registered dental hygienists and registered dental hygienists in alternative practice as described in Section 1910.5. The language submitted by the board shall mirror the instructional curriculum for the registered dental assistant in extended functions. Any subsequent amendments to the regulations that are promulgated by the board for the Interim Therapeutic Restoration curriculum shall be submitted to the committee.

(e) The board may issue a permit to a registered dental assistant in extended functions who files a completed application, including the fee, to provide the duties specified in this section after the board has determined the registered dental assistant in extended functions has completed the coursework required in subdivision (c).

(f) This section shall become operative on January 1, 2018.

Cal.Bus. & Prof.Code § 1910.5

§ 1910.5. Additional duties registered dental hygienists are authorized to perform; training; adoption of regulations for courses of instruction

(a) In addition to the duties specified in Section 1910, a registered dental hygienist is authorized to perform the following additional duties, as specified:

(1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental hygienist shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:

(A) In a dental office setting.

(B) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.

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(2) Place protective restorations, which for this purpose are identified as interim therapeutic restorations, and defined as a direct provisional restoration placed to stabilize the tooth until a licensed dentist diagnoses the need for further definitive treatment. An interim therapeutic restoration consists of the removal of soft material from the tooth using only hand instrumentation, without the use of rotary instrumentation, and subsequent placement of an adhesive restorative material. Local anesthesia shall not be necessary for interim therapeutic restoration placement. Interim therapeutic restorations shall be placed only in accordance with both of the following:

(A) In either of the following settings:

(i) In a dental office setting.

(ii) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.

(B) After the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.

(b) The functions described in subdivision (a) may be performed by a registered dental hygienist only after completion of a program that includes training in performing those functions, or after providing evidence, satisfactory to the dental hygiene board, of having completed a dental hygiene board-approved course in those functions.

…

Cal.Bus. & Prof.Code § 2290.5

§ 2290.5. Telehealth; definitions; consent; in-person health care delivery services; violations; scope of practice; confidentiality; exceptions; privileges and credentials of telehealth service providers

(a) For purposes of this division, the following definitions shall apply:

(1) “Asynchronous store and forward” means the transmission of a patient's medical information from an originating site to the health care provider at a distant site.

(2) “Distant site” means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(3) “Health care provider” means any of the following:

(A) A person who is licensed under this division.

…

(4) “Originating site” means a site where a patient is located at the time health care services are provided via a telecommunications system or where the asynchronous store and forward service originates.

(5) “Synchronous interaction” means a real-time interaction between a patient and a health care provider located at a distant site.

(6) “Telehealth” means the mode of delivering health care services and public health via information and

communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

(b) Before the delivery of health care via telehealth, the health care provider initiating the use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written consent from the patient for the use of telehealth as an acceptable mode of delivering health care services and public health. The consent shall be documented.

(c) This section does not preclude a patient from receiving in-person health care delivery services during a specified course of health care and treatment after agreeing to receive services via telehealth.

(d) The failure of a health care provider to comply with this section shall constitute unprofessional conduct. Section 2314 shall not apply to this section.

(e) This section shall not be construed to alter the scope of practice of a health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

(f) All laws regarding the confidentiality of health care information and a patient's rights to the patient's medical information shall apply to telehealth interactions.

(g) All laws and regulations governing professional responsibility, unprofessional conduct, and standards of practice that apply to a health care provider under the health care provider's license shall apply to that health care provider while providing telehealth services.

(h) This section shall not apply to a patient under the jurisdiction of the Department of Corrections and Rehabilitation or any other correctional facility.

(i)(1) Notwithstanding any other law and for purposes of this section, the governing body of the hospital whose patients are receiving the telehealth services may grant privileges to, and verify and approve credentials for, providers of telehealth services based on its medical staff recommendations that rely on information provided by the distant-site hospital or telehealth entity, as described in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

(2) By enacting this subdivision, it is the intent of the Legislature to authorize a hospital to grant privileges to, and verify and approve credentials for, providers of telehealth services as described in paragraph (1).

(3) For the purposes of this subdivision, “telehealth” shall include “telemedicine” as the term is referenced in Sections 482.12, 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

Medicaid Reimbursement

Cal.Welf. & Inst.Code § 14132.72

§ 14132.72. Telehealth; medical services without in-person contact; barriers to in-person visits; type of setting where services are provided; use of telehealth not to be required if inappropriate; all-county letters, provider bulletins, and instructions

(a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code shall apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the provider.

(c) In-person contact between a health care provider and a patient shall not be required under the Medi-Cal program for services appropriately provided through telehealth, subject to reimbursement policies adopted by the department to compensate a licensed health care provider who provides health care services through telehealth that are otherwise reimbursed pursuant to the Medi-Cal program. Nothing in this section or the Telehealth Advancement Act of 2011 shall be construed to conflict with or supersede the provisions of Section 14091.3 of this code or any other existing state laws or regulations related to reimbursement for services provided by a noncontracted provider.

(d) The department shall not require a health care provider to document a barrier to an in-person visit for Medi-Cal coverage of services provided via telehealth.

(e) For the purposes of payment for covered treatment or services provided through telehealth, the department shall not limit the type of setting where services are provided for the patient or by the health care provider.

(f) Nothing in this section shall be interpreted to authorize the department to require the use of telehealth when the health care provider has determined that it is not appropriate.

(g) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

Cal.Welf. & Inst.Code § 14132.723

§ 14132.723. Services provided during or immediately following a state of emergency; reimbursement for telehealth services, telephonic services, or covered benefit services provided somewhere off premises of clinic; federal approval and funds required to implement this section

(a)(1) Notwithstanding any other law, neither face-to-face contact nor a patient's physical presence on the premises shall be required for services provided by an enrolled community clinic to a Medi-Cal beneficiary during or immediately following a state of emergency, as described in Section 8628.5 of the Government Code.

(2) Notwithstanding any other law, the department may apply paragraph (1) to services provided by another enrolled fee-for-service Medi-Cal provider, clinic, or facility during or immediately following a state of emergency.

(b) For purposes of this section, the following terms have the following meanings:

(1)(A) “Enrolled community clinic” means a community clinic licensed under subdivision (a) of Section 1204 of the Health and Safety Code, an intermittent clinic exempt from licensure under subdivision (h) of Section 1206 of the Health and Safety Code, a clinic operated by the state or any of its political subdivisions, including, but not limited to, the University of California or a city or county that is exempt from licensure under subdivision (b) of Section 1206 of the Health and Safety Code, a tribal clinic exempt

from licensure under subdivision (c) of Section 1206 of the Health and Safety Code, or an outpatient setting conducted, maintained, or operated by a federally recognized Indian tribe, tribal organization, or urban Indian organization, as defined in Section 1603 of Title 25 of the United States Code, that is certified, as applicable, and enrolled in good standing as a Medi-Cal provider or, in the case of an intermittent site, is added to a parent clinic's provider master file under Section 14043.15.

(B) An outpatient setting that operates as a federally qualified health center (FQHC) or a rural health center (RHC) shall qualify as an enrolled community clinic, regardless of its license type or license-exempt status.

(2) "Immediately following" means up to 90 calendar days, as deemed appropriate by the department, following the termination of the proclaimed state of emergency, as described in Section 8629 of the Government Code. Under extraordinary circumstances, including, but not limited to, the destruction of an enrolled location, as described in subdivision (a), the department may extend, in its discretion or at the direction of the Governor, the period of time immediately following the termination of a state of emergency beyond 90 calendar days and for as long as is necessary for the health and safety of the public.

(3)(A) "Premises" means either of the following, as applicable:

(i) A site located within the four walls of the enrolled community clinic, and at the address listed either on the primary care clinic license or in the provider master file.

(ii) A site located within the four walls of the enrolled fee-for-service Medi-Cal provider, clinic, or facility, and at the address listed either on its license or in the provider master file.

(B) For purposes of an FQHC or RHC, "premises" include a site located outside of the four walls of the FQHC or RHC, and at an address other than the address listed on its license or in the provider master file, but within the boundaries of the proclamation declaring the state of emergency.

(4) "Telehealth" has the same meaning as provided in Section 2290.5 of the Business and Professions Code.

(5) "Telephonic services" means health services provided via telephone with audio component only.

(c) The following services shall be reimbursable when provided by an enrolled community clinic, an enrolled fee-for-service Medi-Cal program provider, clinic, or facility approved by the department pursuant to paragraph (2) of subdivision (a) during or immediately following a state of emergency for any dates of service on or after the date that the department obtains federal approvals and federal matching funds to implement these provisions pursuant to subdivision (f).

(1) Telehealth services, including services provided by the enrolled community clinic or approved enrolled provider, clinic, or facility at a distant site location, whether on or off the premises, to a Medi-Cal beneficiary located at an originating site, which includes the beneficiary's home, temporary shelter, or any other location, if the services are provided somewhere located within the boundaries of the proclamation declaring the state of emergency.

(2) Telephonic services.

(3) Covered benefit services that are otherwise reimbursable to an FQHC or RHC, but that are provided somewhere off the premises, including, but not limited to, at a temporary shelter, a Medi-Cal beneficiary's home, or any location other than the premises, but within the boundaries of the proclamation declaring the state of emergency.

(d) For purposes of paragraph (1) of subdivision (c), and consistent with Section 14132.72, the department shall ensure its reimbursement policies reflect the intent of the Legislature to authorize reimbursement for telehealth services appropriately provided by an enrolled community clinic, or, if approved by the department pursuant to paragraph (2) of subdivision (a), by an enrolled fee-for-service Medi-Cal provider, clinic, or facility, respectively, during or immediately following a state of emergency. This subdivision does not limit reimbursement for, or coverage of, or reduce access to, services provided through telehealth on or before the enactment of this section.

(e) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action.

(f) This section shall be implemented only to the extent that both of the following occur:

(1) The department obtains any federal approvals necessary to implement this section.

(2) The department obtains federal matching funds to the extent permitted by federal law.

Cal.Welf. & Inst.Code § 14132.724

§ 14132.724. Guidance and instructions for reimbursement for services provided pursuant to Section 14132.723 posted to department's internet website; federal approval required for state plan amendments or waivers to implement this section

(a) On or before July 1, 2020, the department shall issue, and shall publish on its internet website, guidance for enrolled community clinics and other enrolled fee-for-service Medi-Cal providers, clinics, or facilities that are subject to Section 14132.723 in order to facilitate reimbursement for services provided pursuant to Section 14132.723, whether those services are provided at a health facility, a shelter, the Medi-Cal beneficiary's home, or any other location within the boundaries of the emergency proclamation for the state of emergency, as described in Section 8628.5 of the Government Code. This guidance shall include, at a minimum, all of the following information:

(1) Instructions, including examples, describing how enrolled community clinics and other enrolled fee-for-service Medi-Cal providers, clinics, or facilities submit claims for telehealth or telephonic services, as described in Section 14132.723, to Medi-Cal beneficiaries located outside the premises of the enrolled community clinic or other enrolled fee-for-service Medi-Cal provider, clinic, or facility during or immediately following a state of emergency.

(2) Direction to Medi-Cal managed care plans on paying any claims submitted in accordance with the guidance issued under this section, including that Medi-Cal managed care plans contracting with the department under the Medi-Cal program are responsible for ensuring their delegated payers comply with all applicable federal and state laws, regulations, contract requirements, and any department-

issued guidance related to the provision of services by enrolled community clinics or other providers, clinics, or facilities during or immediately following a state of emergency.

(3)(A) Identification of services, provided during or immediately following a state of emergency, that may be provided solely through a telephonic visit, and identification of services that require other forms of telehealth, such as a live, synchronous video interaction, asynchronous store and forward, or an interactive telecommunications system.

(B) Identification of telephonic, facsimile, email, or remote patient monitoring devices that may be used and reimbursed as part of a Medi-Cal covered service, including, but not limited to, laboratory, x-ray, or physician services, subject to any required federal approvals or waivers sought under subdivision (d).

(4) Policies for ensuring prompt payment of claims submitted by enrolled community clinics or other enrolled fee-for-service Medi-Cal providers, clinics, or facilities for services provided during or immediately following a state of emergency, including, but not limited to, the temporary waiver of documentation requirements and streamlined billing or appeal processes for commonly owned entities.

(b) For purposes of this section, the following terms have the following meanings:

(1) "Asynchronous store and forward" has the same meaning as provided in Section 2290.5 of the Business and Professions Code.

(2) "Immediately following" has the same meaning as provided in Section 14132.723.

(3) "Interactive telecommunications system" has the same meaning as provided in Section 410.78 of Title 42 of the Code of Federal Regulations.

(4) "Premises" has the same meaning as provided in Section 14132.723.

(5) "Telehealth" has the same meaning as provided in Section 2290.5 of the Business and Professions Code.

(c) The department shall seek federal approval of any necessary state plan amendments or waivers to implement this section, including, but not limited to, any demonstration program or similar opportunities allowing a telephonic visit to be used as a substitute for other forms of telehealth, such as synchronous video interaction, asynchronous store and forward, or an interactive telecommunications system.

(d) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, or make specific this section by means of all-county letters, plan letters, plan or provider bulletins, or similar instructions, without taking regulatory action. The department shall adopt regulations by January 1, 2024, in accordance with the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

§ 14132.725. Health care services provided by asynchronous store and forward; face-to-face contact no longer required; billing and reimbursement policies; implementation

(a) For purposes of this section, the following definitions apply:

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(1) "Border community" means border areas adjacent to the State of California where it is customary practice for California residents to use medical resources in adjacent areas outside the state. Under these circumstances, program controls and limitations are the same as for services rendered by health care providers within the state.

(2) "Health care provider" has the same meaning as set forth in paragraph (3) of subdivision (a) of Section 2290.5 of the Business and Professions Code, and shall be either enrolled as a Medi-Cal rendering provider, or a nonphysician medical practitioner affiliated with an enrolled Medi-Cal provider group. "Health care provider" also includes any provider type designated by the department pursuant to subparagraph (A) of paragraph (2) of subdivision (b). The enrolled Medi-Cal provider or provider group for which the health care provider renders services via telehealth shall meet all Medi-Cal requirements and shall be located in the state or a border community.

(3) "Health care service plan" has the same meaning as set forth in subdivision (f) of Section 1345 of the Health and Safety Code.

(4) "Medi-Cal managed care plan" has the same meaning as set forth in subdivision (j) of Section 14184.101.

(5) "Network provider" has the same meaning as set forth in Section 438.2 of Title 42 of the Code of Federal Regulations.

(6) "Telehealth" has the same meaning as set forth in paragraph (6) of subdivision (a) of Section 2290.5 of the Business and Professions Code.

(b) (1) Subject to subdivision (k), in-person, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for covered health care services and provider types designated by the department, when provided by video synchronous interaction, asynchronous store and forward, as defined in subdivision (a) of Section 2290.5 of the Business and Professions Code, audio-only synchronous interaction, remote patient monitoring, or other permissible virtual communication modalities, when those services and settings meet the applicable standard of care and meet the requirements of the service code being billed.

(2) (A) In implementing this section, the department shall designate and periodically update the covered health care services and provider types, including required licensing and credentialing criteria, as applicable, which may be appropriately delivered via the telehealth modalities described in this subdivision.

(B) Applicable health care services appropriately provided through video synchronous interaction, asynchronous store and forward, audio-only synchronous interaction, remote patient monitoring, or other permissible virtual communication modalities are subject to billing, reimbursement, and utilization management policies imposed by the department. Subject to subdivision (k), utilization management protocols adopted by the department pursuant to this section shall be consistent with, and no more restrictive than, those authorized for health care service plans pursuant to Section 1374.13 of the Health and Safety Code.

(c) (1) (A) Pursuant to an effective date designated by the department that is no sooner than January 1, 2024, a Medi-Cal provider furnishing applicable health care services via audio-only synchronous

interaction shall also offer those same health care services via video synchronous interaction to preserve beneficiary choice.

(B) (i) The department may provide specific exceptions to the requirement specified in subparagraph (A), based on a Medi-Cal provider's access to requisite technologies, which shall be developed in consultation with affected stakeholders and published in departmental guidance.

(ii) In making exceptions to the requirement specified in subparagraph (A), in addition to the provisions in clause (i), the department may also take into consideration the availability of broadband access based on speed standards set by the Federal Communications Commission, pursuant to Section 706 of the Telecommunications Act of 1996 (Pub. L. No. 104-104) or other applicable federal law or regulation.

(2) Effective on the date designated by the department pursuant to paragraph (1), a provider furnishing services through video synchronous interaction or audio-only synchronous interaction shall also do one of the following:

(A) Offer those services via in-person, face-to-face contact.

(B) Arrange for a referral to, and a facilitation of, in-person care that does not require a patient to independently contact a different provider to arrange for that care.

(3) In implementing this subdivision, the department shall consider additional recommendations from affected stakeholders regarding the need to maintain access to in-person services without unduly restricting access to telehealth services.

(4) A health care provider may establish a new patient relationship with a Medi-Cal beneficiary via video synchronous interaction consistent with any requirements imposed by the department.

(5) (A) A health care provider shall not establish a new patient relationship with a Medi-Cal beneficiary via asynchronous store and forward, telephonic (audio-only) synchronous interaction, remote patient monitoring, or other virtual communication modalities, except as set forth in paragraph (4) of subdivision (g) of Section 14132.100.

(B) Notwithstanding the prohibition in subparagraph (A), the department may provide for specific exceptions to this prohibition, the department may provide for specific exceptions described in clauses (i) and (ii), which shall be developed in consultation with affected stakeholders and published in departmental guidance.

(i) Notwithstanding the prohibition in subparagraph (A), a health care provider may establish a new patient relationship using an audio-only synchronous interaction when the visit is related to sensitive services, as defined in subdivision (n) of Section 56.05 of the Civil Code, and when established in accordance with department specific requirements and consistent with federal and state law, regulations and guidance.

(ii) Notwithstanding the prohibition in subparagraph (A), a health care provider may establish a new patient relationship using an audio-only synchronous interaction when the patient requests an audio-only modality or attests they do not have access to video, and when established in accordance with department specific requirements and consistent with federal and state laws, regulations and guidance.

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(6) Subject to subdivision (k), the department may establish separate fee schedules for applicable health care services delivered via remote patient monitoring or other permissible virtual communication modalities.

(7) This subdivision does not apply to Medi-Cal covered services delivered by providers via any telehealth modality to eligible inmates in state prisons, county jails, or youth correctional facilities.

(d) In addition to any existing law requiring beneficiary consent to telehealth, including, but not limited to, subdivision (b) of Section 2290.5 of the Business and Professions Code, all of the following shall be communicated by a health care provider to a Medi-Cal beneficiary, in writing or verbally, on at least one occasion prior to, or concurrent with, initiating the delivery of one or more health care services via telehealth to a Medi-Cal beneficiary: an explanation that beneficiaries have the right to access covered services that may be delivered via telehealth through an in-person, face-to-face visit; an explanation that use of telehealth is voluntary and that consent for the use of telehealth can be withdrawn at any time by the Medi-Cal beneficiary without affecting their ability to access covered Medi-Cal services in the future; an explanation of the availability of Medi-Cal coverage for transportation services to in-person visits when other available resources have been reasonably exhausted; and the potential limitations or risks related to receiving services through telehealth as compared to an in-person visit, to the extent any limitations or risks are identified by the provider.

(1) The provider shall document in the patient record the provision of this information and the patient's verbal or written acknowledgment that the information was received.

(2) The department shall develop, in consultation with affected stakeholders, model language for purposes of the communication described in this subdivision.

(3) This subdivision does not apply to Medi-Cal covered services delivered by providers via any telehealth modality to eligible inmates in state prisons, county jails, or youth correctional facilities.

(e) (1) The department shall develop, in consultation with affected stakeholders, an informational notice to be distributed to fee-for-service Medi-Cal beneficiaries and for use by Medi-Cal managed care plans in communicating to their enrollees. Information in the notice shall include, but not be limited to, all of the following:

(A) The availability of Medi-Cal covered telehealth services.

(B) The beneficiary's right to access all medically necessary covered services through in-person, face-to-face visits, and a provider's and Medi-Cal managed care plan's responsibility to offer or arrange for that in-person care, as applicable.

(C) An explanation that use of telehealth is voluntary and that consent for the use of telehealth can be withdrawn by the Medi-Cal beneficiary at any time without affecting their ability to access covered Medi-Cal services in the future.

(D) An explanation of the availability of Medi-Cal coverage for transportation services to in-person visits when other available resources have been reasonably exhausted.

(E) Notification of the beneficiary's right to make complaints about the offer of telehealth services in lieu of in-person care or about the quality of care delivered through telehealth.

(2) The informational notice shall be translated into threshold languages determined by the department pursuant to subdivision (b) of Section 14029.91 and provided in a format that is culturally and linguistically appropriate.

(3) This subdivision does not apply to Medi-Cal covered services delivered by providers via any telehealth modality to eligible inmates in state prisons, county jails, or youth correctional facilities.

(f) (1) Subject to subdivision (k), the department shall reimburse health care providers of applicable health care services delivered via video synchronous interaction, synchronous audio-only modality, or asynchronous store and forward, as applicable, at payment amounts that are not less than the amounts the provider would receive if the services were delivered via in-person, face-to-face contact, so long as the services or settings meet the applicable standard of care and meet the requirements of the service code being billed.

(2) Subject to subdivision (k), for applicable health care services appropriately provided by a network provider via video synchronous interaction, audio-only synchronous interaction modality, or asynchronous store and forward, as applicable, to an enrollee of a Medi-Cal managed care plan, the Medi-Cal managed care plan shall reimburse the network provider at payment amounts that are not less than the amounts the network provider would have received if the services were delivered via in-person, face-to-face contact, unless the Medi-Cal managed care plan and network provider mutually agree to reimbursement in different amounts.

(g) On or before January 1, 2023, the department shall develop a research and evaluation plan that does all of the following:

(1) Proposes strategies to analyze the relationship between telehealth and the following: access to care, access to in-person care, quality of care, and Medi-Cal program costs, utilization, and program integrity.

(2) Examines issues using an equity framework that includes stratification by available geographic and demographic factors, including, but not limited to, race, ethnicity, primary language, age, and gender, to understand inequities and disparities in care.

(3) Prioritizes research and evaluation questions that directly inform Medi-Cal policy.

(h) Applicable health care services provided through asynchronous store and forward, video synchronous interaction, audio-only synchronous interaction, remote patient monitoring, or other permissible virtual communication modalities as described in this section shall comply with the privacy and security requirements contained in the federal Health Insurance Portability and Accountability Act of 1996 found in Parts 160 and 164 of Title 45 of the Code of Federal Regulations, the Medicaid State Plan, and any other applicable state and federal statutes and regulations.

(i) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, plan letters, provider bulletins, and similar instructions, without taking any further regulatory action.

Research data are current as of September 2021. This document is intended for educational purposes only and should not be considered legal advice. Please contact Phil Mauller at maullerp@adea.org with any updates or information that may be relevant to this document.

(j) Consistent with the requirements of this section and subject to subdivision (k), a PACE organization approved by the department pursuant to Chapter 8.75 (commencing with Section 14591) may use video telehealth to conduct initial assessments and annual re-assessments for eligibility for enrollment in the PACE program.

(k) The department shall seek any federal approvals it deems necessary to implement this section. This section shall be implemented only to the extent that any necessary federal approvals are obtained and federal financial participation is available and is not otherwise jeopardized.

(l) This section shall be operative on January 1, 2023, or on the operative date or dates reflected in the applicable federal approvals obtained by the department pursuant to subdivision (k), whichever is later.

(m) This section does not apply to health care services provided via telehealth in an FQHC or RHC visit as described in paragraph (4) of subdivision (g) of Section 14132.100.

Private Payer Reimbursement

Cal.Health & Safety Code § 1345

§ 1345. Definitions

As used in this chapter:

…

(f) "Health care service plan" or "specialized health care service plan" means either of the following:

(1) Any person who undertakes to arrange for the provision of health care services to subscribers or enrollees, or to pay for or to reimburse any part of the cost for those services, in return for a prepaid or periodic charge paid by or on behalf of the subscribers or enrollees.

(2) Any person, whether located within or outside of this state, who solicits or contracts with a subscriber or enrollee in this state to pay for or reimburse any part of the cost of, or who undertakes to arrange or arranges for, the provision of health care services that are to be provided wholly or in part in a foreign country in return for a prepaid or periodic charge paid by or on behalf of the subscriber or enrollee.

…

Cal.Health & Safety Code § 1374.13

§ 1374.13. Telehealth; medical services without in-person contact; type of setting where services are provided; health care service plan and Medi-Cal managed care plan contracts with the department; use of telehealth not to be required if inappropriate

(a) For the purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) A health care service plan shall not require that in-person contact occur between a health care provider and a patient before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups, and pursuant to Section 1374.14.

(d) A health care service plan shall not limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the enrollee or subscriber and the health care service plan, and between the health care service plan and its participating providers or provider groups, and pursuant to Section 1374.14.

(e) This section shall also apply to health care service plan contracts and Medi-Cal managed care plan contracts with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Notwithstanding any other law, this section does not authorize a health care service plan to require the use of telehealth if the health care provider has determined that it is not appropriate.

Cal.Health & Safety Code § 1374.14

§ 1374.14. Telehealth services; requirements for health care service plan contracts

(a)(1) A contract issued, amended, or renewed on or after January 1, 2021, between a health care service plan and a health care provider for the provision of health care services to an enrollee or subscriber shall specify that the health care service plan shall reimburse the treating or consulting health care provider for the diagnosis, consultation, or treatment of an enrollee or subscriber appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for reimbursement for the same service through in-person diagnosis, consultation, or treatment.

(2) This section does not limit the ability of a health care service plan and a health care provider to negotiate the rate of reimbursement for a health care service provided pursuant to a contract subject to this section. Services that are the same, as determined by the provider's description of the service on the claim, shall be reimbursed at the same rate whether provided in person or through telehealth. When negotiating a rate of reimbursement for telehealth services for which no in-person equivalent exists, a health care service plan and the provider shall ensure the rate is consistent with subdivision (h) of Section 1367.

(3) This section does not require telehealth reimbursement to be unbundled from other capitated or bundled, risk-based payments.

(b)(1) A health care service plan contract issued, amended, or renewed on or after January 1, 2021, shall specify that the health care service plan shall provide coverage for health care services appropriately delivered through telehealth services on the same basis and to the same extent that the health care service plan is responsible for coverage for the same service through in-person diagnosis, consultation, or treatment. Coverage shall not be limited only to services delivered by select third-party corporate telehealth providers.

(2) This section does not alter the obligation of a health care service plan to ensure that enrollees have access to all covered services through an adequate network of contracted providers, as required under Sections 1367, 1367.03, and 1367.035, and the regulations promulgated thereunder.

(3) This section does not require a health care service plan to cover telehealth services provided by an out-of-network provider, unless coverage is required under other provisions of law.

(c) A health care service plan may offer a contract containing a copayment or coinsurance requirement for a health care service delivered through telehealth services, provided that the copayment or coinsurance does not exceed the copayment or coinsurance applicable if the same services were delivered through in-person diagnosis, consultation, or treatment. This subdivision does not require cost sharing for services provided through telehealth.

(d) Services provided through telehealth and covered pursuant to this chapter shall be subject to the same deductible and annual or lifetime dollar maximum as equivalent services that are not provided through telehealth.

(e) The definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code apply to this section.

(f) This section shall not apply to Medi-Cal managed care plans that contract with the State Department of Health Care Services pursuant to Chapter 7 (commencing with Section 14000) of, Chapter 8 (commencing with Section 14200) of, or Chapter 8.75 (commencing with Section 14591) of, Part 3 of Division 9 of the Welfare and Institutions Code.

Cal.Health & Safety Code § 1374.142

(a) A health care service plan that issues, sells, renews, or offers a plan contract covering dental services, including a specialized health care service plan contract covering dental services that offers a service via telehealth to an enrollee through a third-party corporate telehealth provider shall report to the department, in a manner specified by the department, all of the following for each product type:

(1) The total number of services delivered via telehealth by a third-party corporate telehealth provider.

(2) For each third-party corporate telehealth provider with which it contracts, the percentage of the third-party telehealth provider's contracted providers available to the plan's enrollees that are also network providers.

(3) For each third-party corporate telehealth provider with which it contracts, the types of telehealth services utilized by enrollees, including information on the gender and age of the enrollee, and any other information as determined by the department.

(b) A health care service plan that issues, sells, renews, or offers a plan contract covering dental services, including a specialized health care service plan contract covering dental services that offers a service via telehealth to an enrollee through a third-party corporate telehealth provider, shall disclose to the enrollee the impact of third-party telehealth visits on the enrollee's benefit limitations, including frequency limitations and the enrollee's annual maximum.

(c) Section 1374.141 shall not apply to specialized health care service plans covering dental services.

(d) For the purposes of this section, "third-party corporate telehealth provider" means a corporation that provides dental services exclusively through a telehealth technology platform and has no physical location at which a patient can receive services, and is directly contracted with a health care service plan, including a specialized health care service plan, that issues, sells, renews, or offers a plan contract covering dental services.

Cal.Ins.Code § 10123.85

§ 10123.85. Telehealth; medical services without in-person contact; type of setting where services are provided; health care service plan contracts with department; use of telehealth not to be required if inappropriate

(a) For purposes of this section, the definitions in subdivision (a) of Section 2290.5 of the Business and Professions Code apply.

(b) It is the intent of the Legislature to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a health care provider without in-person contact with the health care provider.

(c) A health insurer shall not require that in-person contact occur between a health care provider and a patient before payment is made for the services appropriately provided through telehealth, subject to the terms and conditions of the contract entered into between the policyholder or contract holder and the insurer, and between the insurer and its participating providers or provider groups, and pursuant to Section 10123.855.

(d) A health insurer shall not limit the type of setting where services are provided for the patient or by the health care provider before payment is made for the covered services appropriately provided by telehealth, subject to the terms and conditions of the contract between the policyholder or contract holder and the insurer, and between the insurer and its participating providers or provider groups, and pursuant to Section 10123.855.

(e) Notwithstanding any other law, this section does not authorize a health insurer to require the use of telehealth if the health care provider has determined that it is not appropriate.

Cal.Ins.Code § 10123.857

(a) A health insurer that issues, sells, renews, or offers a policy covering dental services, including a specialized health insurance policy covering dental services that offers a service via telehealth to an

insured through a third-party corporate telehealth provider shall report to the department, in a manner specified by the department, all of the following for each product type:

(1) The total number of services delivered via telehealth by a third-party corporate telehealth provider.

(2) For each third-party corporate telehealth provider with which it contracts, the percentage of the third-party telehealth provider's contracted providers available to the insurer's insured that are also network providers.

(3) For each third-party corporate telehealth provider with which it contracts, the types of telehealth services utilized by insureds, including information on the gender and age of the insured, and any other information as determined by the department.

(b) A health care insurance policy that issues, sells, renews, or offers an insurance policy covering dental services, including a specialized health care policy covering dental services that offers a service via telehealth to an insured through a third-party corporate telehealth provider, shall disclose to the insured the impact of third-party telehealth visits on the insured's benefit limitations, including frequency limitations and the insured's annual maximum.

(c) Section 10123.856 shall not apply to specialized health insurance policies covering dental services.

(d) For the purposes of this section, "third-party corporate telehealth provider" means a corporation that provides dental services exclusively through a telehealth technology platform and has no physical location at which a patient can receive services, and is directly contracted with a health insurer that issues, sells, renews, or offers a policy, including a specialized health insurance policy, that covers dental services.

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Colorado

Requirements and Permissible Practices

Article 220. Dentists and Dental Hygienists (Pts. 1 — 6)
Part 1. General Provisions (§§ 12-220-101 — 12-220-108)
C.R.S. 12-220-104. Definitions - rules.

…
(15) "Telehealth supervision" means indirect supervision by a dentist of a dental therapist or dental hygienist performing a statutorily authorized procedure using telecommunications systems.

C.R.S. 12-220-505 Interim therapeutic restorations by dental hygienists - permitting process - rules - subject to review.
(1) Upon application, accompanied by a fee in an amount determined by the director, the board shall grant a permit to place interim therapeutic restorations to any dental hygienist applicant who:

(a) Holds a license in good standing to practice dental hygiene in Colorado; and

(b) Has completed a course developed at the postsecondary educational level that complies with the rules adopted by the board. The course must be offered under the direct supervision of a member of the faculty of a Colorado dental or dental hygiene school accredited by the Commission on Dental Accreditation or its successor agency. All faculty responsible for clinical evaluation of students must be dentists with a faculty appointment at an accredited Colorado dental or dental hygiene school.

(c) and (d) Repealed.

(2) Repealed.
(3) A dental hygienist shall not use local anesthesia for the purpose of placing interim therapeutic restorations.
(4)

(a) A dental hygienist may place an interim therapeutic restoration only after a dentist provides a diagnosis, treatment plan, and instruction to perform the procedure.

(b) If a supervising dentist authorizes a dental hygienist to perform an interim therapeutic restoration placement at a location other than the dentist's practice location, the dental hygienist shall provide the patient or the patient's representative with written notification that the care was provided at the direction of the supervising dentist. The dental hygienist shall include in the written notification the dentist's name, practice location address, and telephone number.

(c) A dental hygienist who obtains a dentist's diagnosis, treatment plan, and instruction to perform an ITR utilizing telehealth shall notify the patient of the patient's right to receive interactive communication with the distant dentist upon request.

(5) A dental hygienist who obtains a permit pursuant to this section may place interim therapeutic restorations in a dental practice setting under the direct or indirect supervision of a dentist or through telehealth supervision for purposes of communication with the dentist.
(6)

(a) A dentist shall not supervise more than five full-time equivalent dental hygienists who place interim therapeutic restorations under telehealth supervision unless granted a waiver by the board pursuant to subsection (6)(b) of this section. For purposes of patient referral for follow-up care, a dentist who supervises a dental hygienist who provides interim therapeutic restorations under telehealth supervision must have an active license in good standing issued by the board and a

physical practice location in Colorado or within reasonable proximity of the location where the interim therapeutic restoration is placed.

(b) The board shall promulgate rules creating a process for a dentist to seek a waiver from the supervision limit specified in subsection (6)(a) of this section. At a minimum, the rules must specify the application process and waiver requirements.

(7) A dental hygienist shall inform the patient or the patient's legal guardian, in accordance with board rules, that the patient should follow up with a dentist as appropriate.

(8) Repealed.

3 CCR 709-1:1.25. Placement of Interim Therapeutic Restorations by Dental Hygienists

This Rule is promulgated pursuant to sections 12-20-204, 12-220-105(3), 12-220-106, 12-220-504(1)(d) and 12-220-505, C.R.S.

A. Once issued a permit by the Board, a dental hygienist may place interim therapeutic restorations in a dental practice setting under "direct supervision" as defined in section 12-220-104(7), C.R.S or "indirect supervision" as defined in section 12-220-104(9), C.R.S., of a dentist with an active license in good standing issued by the Board, or through "telehealth supervision" as defined in section 12-220-104(15), C.R.S., for purposes of communication with the supervising dentist.

B. A dentist shall not supervise more than 5 full-time equivalent dental hygienists who place interim therapeutic restorations under telehealth supervision unless granted a waiver by the Board pursuant to section 12-220-505(6)(b), C.R.S.

1. Application Process

a. The applicant requesting a waiver must submit a written application on a form approved by the Board detailing the basis for the waiver request.

b. The written request should address why there is good cause to waive the supervision requirement as set forth in section 12-220-505(6)(a), C.R.S., and should include any documentation necessary to support the request.

c. Upon receipt of the waiver request and documentation, the matter will be considered at the next Board meeting. The applicant will receive the Board's decision in writing.

2. Waiver Requirements

a. Upon a showing of good cause, the Board may permit a waiver of the supervision requirement as set forth in section 12-220-505(6)(a), C.R.S.

b. Factors to be considered in granting such waivers include, but are not limited to:

(1) The quality of protocols setting out the responsibilities of the supervision of the dental hygienist with regard to placing interim therapeutic restorations; and

(2) Any disciplinary history on the part of the supervising dentist or dental hygienist.

c. All such waivers shall be in the sole discretion of the Board. All waivers shall be strictly limited to the terms provided by the Board. The Board reserves the right to withdraw or cancel the waiver upon a finding of disciplinary action. No waivers shall be granted if in conflict with State law.

d. The waiver shall be valid for up to two years, and the dentist must reapply for the waiver every license renewal cycle.

C. In order to be eligible for a permit to place an ITR, a dental hygienist must:

1. Hold a license in good standing to practice dental hygiene in Colorado;

2. Complete a course developed at the postsecondary education level offered under the direct supervision of a member of the faculty of a Colorado dental or dental hygiene school accredited by the Commission on Dental Accreditation (CODA) or its successor agency that complies with the following uniform training standards:

a. Four hours of didactic instruction, including but not limited to:
(1) Pulpal anatomy;
(2) Principles of adhesive restorative materials;
(3) Preparation of the tooth and placement techniques;
(4) Diagnostic criteria for interim therapeutic restorations;
(5) Evaluation of proper placement and technique; and
(6) Protocols for handling sensitivity, complications, or unsuccessful completion and follow-up;
b. Four hours of laboratory instruction that includes placement of interim therapeutic restorations on typodont teeth;
c. Criteria for evaluating competency through placement of interim therapeutic restorations on a minimum of four teeth under direct supervision of faculty; and
d. Clinical evaluations of students must be performed by a dentist with a faculty appointment at an accredited Colorado dental or dental hygiene school.

D. A dental hygienist shall not use local anesthesia for the purpose of placing interim therapeutic restorations.
E. A dental hygienist shall inform the patient or the patient's legal guardian that the interim therapeutic restorations (ITR) will require routine monitoring and follow up or maintenance with a dentist, as appropriate. This informed consent shall be documented in the patient's records.
F. Pursuant to 12-220-201(1)(nn), C.R.S., the Board may take disciplinary action against an applicant or licensee for failing to comply with the requirements regarding the placement of interim therapeutic restorations.

Medicaid Reimbursement

C.R.S. 25.5-5-207. Adult dental benefit--adult dental fund--creation--legislative declaration

…
(d) Subject to federal authorization and federal financial participation, on or after July 1, 2016, the diagnosis, development of a treatment plan, instruction to perform an interim therapeutic restoration procedure, or supervision of a dental hygienist performing an interim therapeutic restoration procedure may be provided through telehealth, including store-and-forward transfer, in accordance with section 25.5-5-321.5.
…

C.R.S. § 25.5-8-109.5. Telehealth--interim therapeutic restorations--reimbursement—definitions

(1) Subject to federal authorization and financial participation, on or after July 1, 2016, in-person contact between a health care provider and an enrollee is not required under the children's basic health plan for the diagnosis, development of a treatment plan, instruction to perform an interim therapeutic restoration procedure, or supervision of a dental hygienist performing an interim therapeutic restoration procedure. A health care provider may provide these services through telehealth, including store-and-forward transfer, and is entitled to reimbursement for the delivery of those services via telehealth to the extent the services are otherwise eligible for reimbursement under the plan. The services are subject to the reimbursement policies developed pursuant to the children's basic health plan.

C.R.S. 25.5-5-320 Telemedicine - reimbursement - disclosure statement - definition - repeal

(1) On or after July 1, 2006, in-person contact between a health-care or mental health-care provider and a patient is not required under the state's medical assistance program for health-care or mental health-

care services delivered through telemedicine that are otherwise eligible for reimbursement under the program. The state department shall promulgate rules specifically relating to entities that deliver health-care or mental health-care services exclusively or predominately through telemedicine. Any health-care or mental health-care service delivered through telemedicine must meet the same standard of care as an in-person visit. Telemedicine may be provided through interactive audio, interactive video, or interactive data communication, including but not limited to telephone, relay calls, interactive audiovisual modalities, and live chat, as long as the technologies are compliant with the federal "Health Insurance Portability and Accountability Act of 1996", Pub.L. 104-191, as amended. The health-care or mental health-care services are subject to reimbursement policies developed pursuant to the medical assistance program. This section also applies to managed care organizations that contract with the state department pursuant to the statewide managed care system only to the extent that:

(a) Health care or mental health care services delivered through telemedicine are covered by and reimbursed under the Medicaid per diem payment program; and

(b) Managed care contracts with managed care organizations are amended to add coverage of health care or mental health care services delivered through telemedicine and any appropriate per diem rate adjustments are incorporated.

(2) The reimbursement rate for a telemedicine service shall, as a minimum, be set at the same rate as the medical assistance program rate for a comparable in-person service. The state department may consider setting the reimbursement rate on a monthly basis as well as on a daily or per-visit basis.

(2.1) For the purposes of reimbursement for services provided by home care agencies, as defined in section 25-27.5-102 (3), the services may be supervised through telemedicine or telehealth.

(2.5)

(a) A telemedicine service meets the definition of a face-to-face encounter for a rural health clinic, as defined in the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(2). The reimbursement rate for a telemedicine service provided by a rural health clinic must be set at a rate that is no less than the medical assistance program rate for a comparable face-to-face encounter or visit.

(b) A telemedicine service meets the definition of a face-to-face encounter for a medical care program of the federal Indian health service. The reimbursement rate for a telemedicine service provided by a medical care program of the federal Indian health service must be set at a rate that is no less than the medical assistance program rate for a comparable face-to-face encounter or visit.

(c) A telemedicine service meets the definition of a face-to-face encounter for a federally qualified health center, as defined in the federal "Social Security Act", 42 U.S.C. sec. 1395x (aa)(4). The reimbursement rate for a telemedicine service provided by a federally qualified health center must be set at a rate that is no less than the medical assistance program rate for a comparable face-to-face encounter or visit.

(3) The state department shall establish rates for transmission cost reimbursement for telemedicine services, considering, to the extent applicable, reductions in travel costs by health care or mental health care providers and patients to deliver or to access such services and such other factors as the state department deems relevant.

(4) A health care or mental health care provider who delivers health care or mental health care services through telemedicine shall provide to each patient, before treating that patient through telemedicine for the first time, the following written statements:

(a) That the patient retains the option to refuse the delivery of the services via telemedicine at any time without affecting the patient's right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the patient would otherwise be entitled;

(b) That all applicable confidentiality protections shall apply to the services; and

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(c) That the patient shall have access to all medical information resulting from the telemedicine services as provided by applicable law for patient access to his or her medical records.

(5) Subsection (4) of this section shall not apply in an emergency.

(6)

(a) The state department shall post telemedicine utilization data to the state department's website no later than thirty days after the effective date of this subsection (6) and shall update the data every other month through state fiscal year 2021-22. For state fiscal years 2020-21 and 2021-22, the state department shall compile, summarize, and report on the utilization data to the public through the annual hearing, pursuant to the "State Measurement for Accountable, Responsive, and Transparent (SMART) Government Act", part 2 of article 7 of title 2.

(b) This subsection (6) is repealed, effective July 1, 2022.

(7) As used in this section, "health-care or mental health-care services" includes speech therapy, physical therapy, occupational therapy, dental care, hospice care, home health care, and pediatric behavioral health care.

C.R.S. 25.5-5-321.5 Telehealth - interim therapeutic restorations - reimbursement - definitions (Effective September 1, 2021)

(1) Subject to federal authorization and federal financial participation, on or after July 1, 2016, in-person contact between a health care provider and a recipient is not required under the state's medical assistance program for the diagnosis, development of a treatment plan, instruction to perform an interim therapeutic restoration procedure, or supervision of a dental hygienist performing an interim therapeutic restoration procedure. A health care provider may provide these services through telehealth, including store-and-forward transfer, and is entitled to reimbursement for the delivery of those services via telehealth to the extent the services are otherwise eligible for reimbursement under the program when provided in person. The services are subject to the reimbursement policies developed pursuant to the state medical assistance program.

(2) As used in this section:

(a) "Interim therapeutic restoration" has the same meaning as set forth in section 12-220-104 (10).

(b) "Store-and-forward transfer" means the asynchronous transmission of medical or dental information to be reviewed by a dentist at a later time at a distant site without the patient present in real time.

Private Payer Reimbursement

C.R.S. 10-16-102 Definitions

…

(33) "Health care services" means any services included in or incidental to the furnishing of medical, behavioral, mental health, or substance use disorder; dental, or optometric care; hospitalization; or nursing home care to an individual, as well as the furnishing to any person of any other services for the purpose of preventing, alleviating, curing, or healing human physical illness or injury, or behavioral, mental health, or substance use disorder. "Health care services" includes the rendering of the services through the use of telehealth, as defined in section 10-16-123 (4)(e).

…

C.R.S. 10-16-123 Telehealth – definitions

(1) It is the intent of the general assembly to recognize the practice of telehealth as a legitimate means by which an individual may receive health care services from a provider without in-person contact with the provider.

(2)

(a) A health benefit plan or dental plan that is issued, amended, or renewed in this state shall not require in-person contact between a provider and a covered person for services appropriately provided through telehealth, subject to all terms and conditions of the health benefit plan or dental plan. Nothing in this section requires the use of telehealth when a provider determines that delivery of care through telehealth is not appropriate or when a covered person chooses not to receive care through telehealth. A provider is not obligated to document or demonstrate that a barrier to in-person care exists to trigger coverage under a health benefit plan or dental plan for services provided through telehealth.

(b)

(I) Subject to all terms and conditions of the health benefit plan or dental plan, a carrier shall reimburse the treating participating provider or the consulting participating provider for the diagnosis, consultation, or treatment of the covered person delivered through telehealth on the same basis that the carrier is responsible for reimbursing that provider for the provision of the same service through in-person consultation or contact by that provider.

(II) A carrier shall not restrict or deny coverage of a health care service that is a covered benefit solely:

(A) Because the service is provided through telehealth rather than in-person consultation or contact between the participating provider or, subject to section 10-16-704, the nonparticipating provider and the covered person where the health care service is appropriately provided through telehealth; or

(B) Based on the communication technology or application used to deliver the telehealth services pursuant to this section.

(III) Section 10-16-704 applies to this subsection (2)(b), and the availability of telehealth services does not modify the requirements imposed on carriers under that section to provide a sufficient network of providers available in the community to provide in-person health care services.

(c) A carrier shall include in the payment for telehealth interactions reasonable compensation to the originating site for the transmission cost incurred during the delivery of health care services through telehealth; except that, for purposes of this subsection (2)(c), the carrier is not required to pay or reimburse for any transmission costs the covered person incurred or originating site fees, regardless of how or by whom the fees are billed, for the delivery of health care services through telehealth to or from the covered person's home or a private residence.

(d) A carrier may offer a health coverage plan or dental plan containing a deductible, copayment, or coinsurance requirement for a health-care service provided through telehealth, but the deductible, copayment, or coinsurance amount must not exceed the deductible, copayment, or coinsurance applicable if the same health-care services are provided through in-person diagnosis, consultation, or treatment.

(e) A carrier shall not:

(I) Impose an annual dollar maximum on coverage for health-care services covered under the health benefit plan or dental plan that are delivered through telehealth, other than an annual dollar maximum that applies to the same services when performed by the same provider through in-person care;

(II) Impose specific requirements or limitations on the HIPAA-compliant technologies that a provider uses to deliver telehealth services, including limitations on audio or live video technologies;

(III) Require a covered person to have a previously established patient-provider relationship with a specific provider in order for the covered person to receive medically necessary telehealth services from the provider; or

(IV) Impose additional certification, location, or training requirements on a provider as a condition of reimbursing the provider for providing health care services through telehealth.

(f) If a covered person receives health-care services through telehealth, a carrier shall apply the applicable copayment, coinsurance, or deductible amount to the telehealth services under the health benefit plan or dental plan, which copayment, coinsurance, or deductible amount shall not exceed the amounts applicable to those health-care services when performed by the same provider through in-person care.

(g)

(I) Repealed.

(II) This section does not apply to:

(A) Short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts; or

(B) Policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the "Social Security Act", as amended, or any other similar coverage under state or federal governmental plans.

(h) Nothing in this section prohibits a carrier from providing coverage or reimbursement for health care services appropriately provided through telehealth to a covered person who is not located at an originating site.

(3) A health benefit plan or dental plan is not required to pay for consultation provided by a provider by telephone or facsimile unless the consultation is provided through HIPAA-compliant interactive audio-visual communication or the use of a HIPAA-compliant application via a cellular telephone.

(4) As used in this section:

(a) "Distant site" means a site at which a provider is located while providing health care services by means of telehealth.

(b) "Originating site" means a site at which a patient is located at the time health care services are provided to him or her by means of telehealth.

(b.5) "Remote monitoring" means the use of synchronous or asynchronous technologies to collect or monitor medical and other forms of health data for individuals at an originating site and electronically transmit that information to providers at a distant site so providers can assess, diagnose, consult, treat, educate, provide care management, suggest self-management, or make recommendations regarding a covered person's health care.

(c) "Store-and-forward transfer" means the electronic transfer of a patient's medical information or an interaction between providers that occurs between an originating site and distant sites when the patient is not present.

(d) Repealed.

(e) "Telehealth" means a mode of delivery of health care services through HIPAA-compliant telecommunications systems, including information, electronic, and communication technologies, remote monitoring technologies, and store-and-forward transfers, to facilitate the assessment, diagnosis, consultation, treatment, education, care management, or self-management of a covered person's health care while the covered person is located at an originating site and the provider is located at a distant site.

Connecticut

Requirements, Permissible Practices and Medicaid Reimbursement

(12) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of a patient's physical, oral and mental health, and includes interaction between the patient at the originating site and the telehealth provider at a distant site, synchronous interactions, asynchronous store and forward transfers or remote patient monitoring, but does not include interaction through (A) facsimile, texting or electronic mail, or (B) audio-only telephone unless the telehealth provider is (i) in-network, or (ii) a provider enrolled in the Connecticut medical assistance program providing such health care or other health services to a Connecticut medical assistance program recipient.

(13) "Telehealth provider" means any person who is (A) an in-network provider or a provider enrolled in the Connecticut medical assistance program providing health care or other health services to a Connecticut medical assistance program recipient through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to such person's profession, and (B) (i) … dentist licensed under chapter 379 of the general statutes, … or (ii) an appropriately licensed, certified or registered … dentist, … in another state or territory of the United States or the District of Columbia, that provides telehealth services pursuant to his or her authority under any relevant order issued by the Commissioner of Public Health and maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified or registered Connecticut health care providers.

(b) (1) Notwithstanding the provisions of section 19a-906 of the general statutes, during the period beginning on the effective date of this section and ending on June 30, 2023, a telehealth provider may only provide a telehealth service to a patient when the telehealth provider:

(B) Has determined whether the patient has health coverage that is fully insured, not fully insured or provided through Medicaid or the Children's Health Insurance Program, and whether the patient's health coverage, if any, provides coverage for the telehealth service;

(D) Conforms to the standard of care applicable to the telehealth provider's profession and expected for in-person care as appropriate to the patient's age and presenting condition, except when the standard of care requires the use of diagnostic testing and performance of a physical examination, such testing or examination may be carried out through the use of peripheral devices appropriate to the patient's condition; and

(E) Provides the patient with the telehealth provider's license number, if any, and contact information.

(2) Notwithstanding the provisions of section 19a-906 of the general statutes, if a telehealth provider provides a telehealth service to a patient during the period beginning on the effective date of this section and ending on June 30, 2023, the telehealth provider shall, at the time of the telehealth provider's first telehealth interaction with a patient, inform the patient concerning the treatment methods and limitations of treatment using a telehealth platform, including, but not limited to, the

limited duration of the relevant provisions of this section and sections 3 to 7, inclusive, of this act, and, after providing the patient with such information, obtain the patient's consent to provide telehealth services. The telehealth provider shall document such notice and consent in the patient's health record. If a patient later revokes such consent, the telehealth provider shall document the revocation in the patient's health record.

(c) Notwithstanding the provisions of this section or title 20 of the general statutes, no telehealth provider shall, during the period beginning on the effective date of this section and ending on June 30, 2023, prescribe any schedule I, II or III controlled substance through the use of telehealth, except a schedule II or III controlled substance other than an opioid drug, as defined in section 20-14o of the general statutes, in a manner fully consistent with the Ryan Haight Online Pharmacy Consumer Protection Act, 21 USC 829(e), as amended from time to time, for the treatment of a person with a psychiatric disability or substance use disorder, as defined in section 17a-458 of the general statutes, including, but not limited to, medication-assisted treatment. A telehealth provider using telehealth to prescribe a schedule II or III controlled substance pursuant to this subsection shall electronically submit the prescription pursuant to section 21a-249 of the general statutes, as amended by this act.

(d) During the period beginning on the effective date of this section and ending on June 30, 2023, each telehealth provider shall, at the time of the initial telehealth interaction, ask the patient whether the patient consents to the telehealth provider's disclosure of records concerning the telehealth interaction to the patient's primary care provider. If the patient consents to such disclosure, the telehealth provider shall provide records of all telehealth interactions during such period to the patient's primary care provider, in a timely manner, in accordance with the provisions of sections 20-7b to 20-7e, inclusive, of the general statutes.

(f) (1) The provision of telehealth services and health records maintained and disclosed as part of a telehealth interaction shall comply with all provisions of the Health Insurance Portability and Accountability Act of 1996 P.L. 104-191, as amended from time to time, and the rules and regulations adopted thereunder, that are applicable to such provision, maintenance or disclosure.

(2) Notwithstanding the provisions of section 19a-906 of the general statutes and subdivision (1) of this subsection, a telehealth provider that is an in-network provider or a provider enrolled in the Connecticut medical assistance program that provides telehealth services to a Connecticut medical assistance program recipient, may, during the period beginning on the effective date of this section and ending on June 30, 2023, use any information or communication technology in accordance with the directions, modifications or revisions, if any, made by the Office for Civil Rights of the United States Department of Health and Human Services to the provisions of the Health Insuranfce Portability and Accountability Act of 1996 P.L. 104-191, as amended from time to time, or the rules and regulations adopted thereunder.

(g) Notwithstanding any provision of the general statutes, nothing in this section shall, during the period beginning on the effective date of this section and ending on June 30, 2023, prohibit a health care provider from: (1) Providing on-call coverage pursuant to an agreement with another health care provider or such health care provider's professional entity or employer; (2) consulting with another health care provider concerning a patient's care; (3) ordering care for hospital outpatients or inpatients; or (4) using telehealth for a hospital inpatient, including for the purpose of ordering medication or treatment for such patient in accordance with the Ryan Haight Online Pharmacy Consumer Protection Act, 21 USC 829(e), as amended from time to time. As used in this subsection, "health care provider"

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means a person or entity licensed or certified pursuant to chapter 370, 372, 373, 375, 376 to 376b, inclusive, 378, 379, 380, 381a, 383 to 383c, inclusive, 384b, 397a, 399 or 400j of the general statutes or licensed or certified pursuant to chapter 368d or 384d of the general statutes.

(h) Notwithstanding any provision of the general statutes, no telehealth provider shall charge a facility fee for a telehealth service provided during the period beginning on the effective date of this section and ending on June 30, 2023.

(i) (1) Notwithstanding any provision of the general statutes, no telehealth provider shall provide health care or health services to a patient through telehealth during the period beginning on the effective date of this section and ending on June 30, 2023, unless the telehealth provider has determined whether or not the patient has health coverage for such health care or health services.

(2) Notwithstanding any provision of the general statutes, a telehealth provider who provides health care or health services to a patient through telehealth during the period beginning on the effective date of this section and ending on June 30, 2023, shall:

(i) An amount that is equal to the amount that Medicare reimburses for such health care or health services if the telehealth provider determines that the patient does not have health coverage for such health care or health services; or

(ii) The amount that the patient's health coverage reimburses, and any coinsurance, copayment, deductible or other out-of-pocket expense imposed by the patient's health coverage, for such health care or health services if the telehealth provider determines that the patient has health coverage for such health care or health services.

(3) If a telehealth provider determines that a patient is unable to pay for any health care or health services described in subdivisions (1) and (2) of this subsection, the provider shall offer to the patient financial assistance, if such provider is otherwise required to offer to the patient such financial assistance, under any applicable state or federal law.

(j) Notwithstanding any provision of the general statutes or any regulation adopted thereunder, a telehealth provider may provide telehealth services pursuant to the provisions of this section from any location.

(k) Notwithstanding the provisions of section 19a-906 of the general statutes, during the period beginning on the effective date of this section and ending on June 30, 2023, any Connecticut entity, institution or health care provider that engages or contracts with a telehealth provider that is licensed, certified or registered in another state or territory of the United States or the District of Columbia to provide health care or other health services shall verify the credentials of such provider in the state in which he or she is licensed, certified or registered, ensure that such a provider is in good standing in such state, and confirm that such provider maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified or registered Connecticut health care providers.

(l) Notwithstanding sections 4-168 to 4-174, inclusive, of the general statutes, from the period beginning on the effective date of this section and ending on June 30, 2023, the Commissioner of Public Health

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may temporarily waive, modify or suspend any regulatory requirements adopted by the Commissioner of Public Health or any boards or commissions under chapters 368a, 368d, 368v, 369 to 381a, inclusive, 382a, 383 to 388, inclusive, 397a, 398, 399, 400a, 400c, 400j and 474 of the general statutes as the Commissioner of Public Health deems necessary to reduce the spread of COVID-19 and to protect the public health for the purpose of providing residents of this state with telehealth services from out-of-state practitioners.

(5) The practitioner demonstrates, in a form and manner prescribed by the commissioner, that such practitioner does not have the technological capacity to issue electronically transmitted prescriptions. For the purposes of this subsection, "technological capacity" means possession of a computer system, hardware or device that can be used to electronically transmit controlled substance prescriptions consistent with the requirements of the federal Controlled Substances Act, 21 USC 801, as amended from time to time. The provisions of this subdivision shall not apply to a practitioner when such practitioner is prescribing as a telehealth provider, as defined in section 19a-906,[or] section 1 of public act 20-2 of the July special session or section 1 of this act, as applicable, pursuant to subsection (c) of section 19a-906,[or] subsection (c) of section 1 of public act 20-2 of the July special session or subsection (c) of section 1 of this act, as applicable.

Private Payer Reimbursement

(6) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of an insured's physical, oral and mental health, and includes interaction between the insured at the originating site and the telehealth provider at a distant site, synchronous interactions, asynchronous store and forward transfers or remote patient monitoring, but does not include interaction through (A) facsimile, texting or electronic mail, or (B) audio-only telephone if the telehealth provider is out-of-network; and

(7) "Telehealth provider" means any person who (A) provides health care or other health services through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to such person's profession, and (B) is (i) a … dentist licensed under chapter 379 of the general statutes, … or (ii) an in-network and appropriately licensed, certified or registered … dentist, … in another state or territory of the United States or the District of Columbia, that provides telehealth services pursuant to his or her authority under any relevant order issued by the Commissioner of Public Health and maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified or registered Connecticut health care providers.

(b) Notwithstanding any provision of the general statutes, each individual health insurance policy that provides coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general statutes that is effective at any time during the period beginning on the effective date of this section and ending on June 30, 2023, shall, at all times that the policy remains in effect during such period, provide coverage for medical advice, diagnosis, care or treatment provided through telehealth, to the same extent coverage is provided for such advice, diagnosis, care or treatment when provided to the insured in person. The policy shall not, at any time during such period, exclude coverage for a service that is appropriately provided through telehealth because such service is provided through telehealth or a telehealth platform selected by an in-network telehealth provider.

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(c) Notwithstanding any provision of the general statutes, no telehealth provider who receives a reimbursement for a covered service provided through telehealth in accordance with subsection (b) of this section shall seek any payment for such service from the insured who received such service, except for any coinsurance, copayment, deductible or other out-of-pocket expense set forth in the insured's policy. Such amount shall be deemed by the telehealth provider to be payment in full.

(d) Nothing in this section shall prohibit or limit a health insurer, health care center, hospital service corporation, medical service corporation or other entity from conducting utilization review for telehealth services, provided such utilization review is conducted in the same manner and uses the same clinical review criteria as a utilization review for an in-person consultation for the same service. Except as provided in subsection (b) or (c) of this section, the coverage required under subsection (b) of this section shall be subject to the same terms and conditions applicable to all other benefits under the policy providing such coverage.

(6) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of an insured's physical, oral and mental health, and includes interaction between the insured at the originating site and the telehealth provider at a distant site, synchronous interactions, asynchronous store and forward transfers or remote patient monitoring, but does not include interaction through (A) facsimile, texting or electronic mail, or (B) audio-only telephone if the telehealth provider is out-of-network; and

(7) "Telehealth provider" means any person who (A) provides health care or other health services through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to such person's profession, and (B) is (i) a … dentist licensed under chapter 379 of the general statutes, … or (ii) an in-network and appropriately licensed, certified or registered … dentist, … in another state or territory of the United States or the District of Columbia, that provides telehealth services pursuant to his or her authority under any relevant order issued by the Commissioner of Public Health and maintains professional liability insurance or other indemnity against liability for professional malpractice in an amount that is equal to or greater than that required for similarly licensed, certified or registered Connecticut health care providers.

(b) Notwithstanding any provision of the general statutes, each group health insurance policy that provides coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general statutes that is effective at any time during the period beginning on the effective date of this section and ending on June 30, 2023, shall, at all times that the policy remains in effect during such period, provide coverage for medical advice, diagnosis, care or treatment provided through telehealth, to the same extent coverage is provided for such advice, diagnosis, care or treatment when provided to the insured in person. The policy shall not, at any time during such period, exclude coverage for a service that is appropriately provided through telehealth because such service is provided through telehealth or a telehealth platform selected by an in-network telehealth provider.

(c) Notwithstanding any provision of the general statutes, no telehealth provider who receives a reimbursement for a covered service provided through telehealth in accordance with subsection (b) of this section shall seek any payment for such service from the insured who received such service, except for any coinsurance, copayment, deductible or other out-of-pocket expense set forth in the insured's

policy. Such amount shall be deemed by the telehealth provider to be payment in full.

(d) Nothing in this section shall prohibit or limit a health insurer, health care center, hospital service corporation, medical service corporation or other entity from conducting utilization review for telehealth services, provided such utilization review is conducted in the same manner and uses the same clinical review criteria as a utilization review for an in-person consultation for the same service. Except as provided in subsection (b) or (c) of this section, the coverage required under subsection (b) of this section shall be subject to the same terms and conditions applicable to all other benefits under the policy providing such coverage.

(1) "Health carrier" has the same meaning as provided in section 38a-1080 of the general statutes;

(2) "Insured" has the same meaning as provided in section 38a-1 of the general statutes;

(3) "Telehealth" has the same meaning as provided in sections 3 and 4 of this act; and

(4) "Telehealth provider" has the same meaning as provided in sections 3 and 4 of this act.

(b) Notwithstanding any provision of the general statutes, no health carrier shall reduce the amount of a reimbursement paid to a telehealth provider for covered health care or health services that the telehealth provider appropriately provided to an insured through telehealth during the period beginning on the effective date of this section and ending on June 30, 2023, because the telehealth provider provided such health care or health services to the patient through telehealth and not in person.

(1) "Telehealth" means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of a patient's physical, oral and mental health, and includes (A) interaction between the patient at the originating site and the telehealth provider at a distant site, and (B) synchronous interactions, asynchronous store and forward transfers or remote patient monitoring. "Telehealth" does not include the use of facsimile, texting or electronic mail.

(2) "Connecticut medical assistance program" means the state's Medicaid program and the Children's Health Insurance Program under Title XXI of the Social Security Act, as amended from time to time.

(b) Notwithstanding the provisions of section 17b-245c, 17b-245e or 19a-906 of the general statutes, or any other section, regulation, rule, policy or procedure governing the Connecticut medical assistance program, the Commissioner of Social Services may, in the commissioner's discretion and to the extent permissible under federal law, provide coverage under the Connecticut medical assistance program for audio-only telehealth services for the period beginning on the effective date of this section and ending on June 30, 2023.

Delaware

Requirements and Permissible Practices

HB 160

(Editorial note: HB 160 became law in 2021. This bill added a new chapter of code that regulates the practice of telehealth for numerous health professionals, including those regulated by the State Board of Dentistry and Dental Hygiene).

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

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(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.

…
Title 24 Regulated Professions and Occupations
Delaware Administrative Code
1100 Board of Dentistry and Dental Hygiene
…
13.0 Telehealth
13.1 Telehealth is the use of electronic communications to provide and deliver a host of health-related information and health-care services, including dentistry and dental hygiene-related information and services, over large and small distances. Telehealth encompasses a variety of health care and health promotion activities, including education, advice, reminders, interventions, and monitoring of interventions.
13.2 In order to deliver Telehealth services one must hold a current, valid license issued by the Board.
13.3 Licensees understand that this rule does not provide licensees with authority to deliver Telehealth Services to anyone located in a jurisdiction other than Delaware, and licensees bear responsibility for complying with laws, rules, and/or policies for the delivery of Telehealth Services set forth by other jurisdictional regulatory boards.
13.4 Licensees delivering Telehealth services shall comply with all of the rules of professional conduct and state and federal statutes relevant to Dentistry and Dental Hygiene.
13.5 Informed consent
13.5.1 Before services are provided through telehealth, the licensee shall obtain written, informed consent from the patient, or other appropriate person with authority to make health care treatment decisions for the patient. At minimum, the informed consent shall inform the patient and document acknowledgement of the risk and limitations of:

13.5.1.1 The use of electronic communications in the provision of care;
13.5.1.2 The potential breach of confidentiality, or inadvertent access, of protected health information using electronic communication in the provision of care; and
13.5.1.3 The potential disruption of electronic communication in the use of telehealth.
13.6 Confidentiality: The licensee shall ensure that the electronic communication is secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act (HIPAA) and other applicable Federal and State laws. Confidentiality shall be maintained through appropriate processes, practices and technology, including disposal of electronic equipment and data.
13.7 Competence and scope of practice
13.7.1 The licensee shall be responsible for determining and documenting that telehealth is an appropriate level of care for the patient.
13.7.2 The licensee shall comply with the Board's law and rules and regulations and all current standards of care requirements applicable to onsite care.
13.7.3 The licensee shall limit the practice of telehealth to the area of competence in which proficiency has been gained through education, training and experience.
13.7.4 The licensee shall document in the file or record which services were provided by telehealth.

Private Payer Reimbursement

Health Insurance Contracts
Title 18 § 3370. Telemedicine [Effective July 1, 2021]. As amended by HB 160
(a) As used in this section:

(1) "Distant site" means a site at which a health-care provider legally allowed to practice in the state is located while providing health-care services by means of telemedicine or telehealth.
(2) "Originating site" means a site in Delaware 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. Notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.
(4) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health-care provider consultation, patient and professional health-related education, public health, health administration, and other services as authorized in Chapter 60 of Title 24.
(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 by a health-care provider legally allowed to practice in the state and practicing within the health-care provider's scope of practice as would be practiced in-person with a patient, while such patient is at an originating site and the health-care provider is at a distant site.

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

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(c) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each health service corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health-care plan for health-care services shall provide coverage for the cost of such health-care services provided through telehealth as directed through regulations promulgated by the Department.
(d) An insurer, health service corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through in-person consultation or contact between a health-care provider and a patient for services appropriately provided through telemedicine services.
(e) An insurer, health service corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer, health service corporation, or health maintenance organization is responsible for coverage for the provision of the same service through in-person consultation or contact. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health-care services.
(f) No insurer, health service corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.
(g) The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on and after January 1, 2016, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.
(h) This section shall not apply to short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts, nor shall it contravene any telehealth requirements made in policies or contracts designed for issuance to persons eligible for coverage under Titles XVIII, XIX, and XXI of the Social Security Act [42 U.S.C. §§ 1395 et seq., 1396 et seq., and 1397aa et seq.], known as Medicare, Medicaid, or any other similar coverage under state or federal governmental plans.

Group and Blanket Health Insurance
Title 18 § 3571R. Telemedicine [Effective July 1, 2021]. As amended by HB 160
(a) As used in this section:

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

(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 by a health-care provider legally allowed to practice in the state and practicing within the health-care provider's scope of practice as would be practiced in-person with a patient, while such patient is at an originating site and the health-care provider is at a distant site.

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

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

(d) An insurer, health service corporation, or health maintenance organization shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through in-person consultation or contact between a health-care provider and a patient for services appropriately provided through telemedicine services.

(e) An insurer, health service corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer, health service corporation, or health maintenance organization is responsible for coverage for the provision of the same service through in-person consultation or contact. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health-care services.

(f) No insurer, health service corporation, or health maintenance organization shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(g) The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on and after January 1, 2016, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

(h) This section shall not apply to short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts, nor shall it contravene any telehealth requirements made in policies or contracts designed for issuance to persons eligible for coverage under Titles XVIII, XIX, and XXI of the Social Security Act [42 U.S.C. §§ 1395 et seq., 1396 et seq., and 1397aa et seq.], known as Medicare and Medicaid, or any other similar coverage under state or federal governmental plans.

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District of Columbia

Medicaid Reimbursement

§ 31–3863. Medicaid reimbursement.

Medicaid shall cover and reimburse for healthcare services appropriately delivered through telehealth if the same services would be covered when delivered in person.

910 MEDICAID-REIMBURSABLE TELEMEDICINE SERVICES

910.1 The purpose of this section is to establish the Department of Health Care Finance (DHCF) standards governing eligibility for Medicaid beneficiaries receiving healthcare services via telemedicine under the Medicaid program, and to establish conditions of participation for providers who deliver healthcare services to Medicaid beneficiaries via telemedicine.

910.2 Telemedicine is a service delivery model that delivers healthcare services as set forth in Subsections 910.10 and 910.11 through a two-way, real time interactive video-audio communication or audio-only communication for the purpose of evaluation, diagnosis, consultation, or treatment.

910.3 The originating site shall be the place where an eligible Medicaid beneficiary is located at the time the healthcare services furnished for payment via a telecommunications system occurs.

910.4 The distant site shall be the place where the eligible Medicaid provider, who furnishes and receives payment for the covered service(s) via a telecommunication system, is located.

910.5 To be eligible for Medicaid reimbursement of telemedicine services under these rules, a Medicaid beneficiary shall meet the following criteria:

(a) Be enrolled in the District of Columbia Medicaid program pursuant to Chapter 95 (Medicaid Eligibility) of Title 29 of the District of Columbia Municipal Regulations;

(b) Be physically present at the originating site at the time the telemedicine service is rendered; and

(c) Provide written or verbal consent to receive telemedicine services in lieu of in-person healthcare services, consistent with all applicable District laws and subsection 910.6.

910.6 A telemedicine provider shall meet the following program requirements:

(a) Be enrolled as a Medicaid Provider and comply with all the requirements set forth under Chapter 94 (Medicaid Provider and Supplier Screening, Enrollment, and Termination) of Title 29 DCMR including having a completed, signed, Medicaid Provider Agreement;

(b) Comply with all technical, programmatic and reporting requirements as set forth in this section;

(c) Be licensed in accordance with Subsection 910.9; and

(d) Appropriately document, pursuant to guidance published on the DHCF website at www.dhcf.dc.gov, the beneficiary's written or verbal consent described in Subsection 910.5; and

(e) Comply with any applicable consent requirements under District laws, including but not limited to Section 3026 of Title 5-E of the District of Columbia Municipal Regulations if providing telemedicine services at a District of Columbia Public School (DCPS) or District of Columbia Public Charter School (DCPCS).

910.7 An originating site shall include the following provider types and settings:

(a) Hospital;

(b) Nursing Facility;

(c) Federally Qualified Health Center (FQHC);

(d) Clinic;

(e) Physician Group/Office;

(f) Nurse Practitioner Group/Office;

(g) District of Columbia Public Schools (DCPS);

(h) District of Columbia Public Charter Schools (DCPCS);

(i) Mental Health Rehabilitation Service (MHRS) provider, Adult Substance Abuse Rehabilitation Service (ASARS) provider, and Adolescent Substance Abuse Treatment Expansion Program (ASTEP) provider certified by the Department of Behavioral Health (DBH) and eligible to provide behavioral health services set forth under the District of Columbia Medicaid State Plan (State Plan); and

(j) Effective March 12, 2020, the beneficiary's home or other settings identified in guidance published on the DHCF website at dhcf.dc.gov.

910.8 A distant site provider shall include, but is not limited to, the following provider types, including any distant site provider staff rendering services remotely:

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(a) Hospital;

(b) Nursing Facility;

(c) FQHC;

(d) Clinic;

(e) Physician Group/office;

(f) Nurse Practitioner Group/Office;

(g) DCPS;

(h) DCPCS; and

(i) MHRS provider, ASARS provider, and ASTEP provider certified by DBH and eligible to provide behavioral health services set forth under the State Plan.

910.9 When the provider and patient receiving healthcare services are located in the District of Columbia, all individual practitioners shall be licensed in accordance with the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201 *et seq*. (2016 Repl. & 2019 Supp.)). For healthcare services rendered outside of the District, the provider of the services shall meet any licensure requirements of the jurisdiction in which the patient is physically located.

910.10 Medicaid reimbursement of healthcare services rendered at the originating site shall include only those healthcare services which are covered under the State Plan and implementing regulations.

910.11 Medicaid reimbursement of healthcare services rendered at the distant site shall include only the following healthcare services:

(a) Evaluation and management;

(b) Consultation of an evaluation and management of a specific healthcare problem requested by an originating site provider;

(c) Behavioral healthcare services including, but not limited to, psychiatric evaluation and treatment, psychotherapies, and counseling; and

(d) Speech therapy.

910.12 To be eligible for Medicaid reimbursement**,** a telemedicine provider shall utilize the reimbursement codes designated for telemedicine available at www.dhcf.dc.gov.

910.13 A telemedicine provider shall comply with the following technology requirements:

(a) Use a camera that has the ability to, either manually or by remote control, provide multiple views of a patient and has the capability of altering the camera's resolution, and focus as needed during the consultation;

(b) Use audio equipment that ensures clear communication and includes echo cancellation;

(c) Ensure internet bandwidth speeds sufficient to provide quality video to meet or exceed fifteen (15) frames per second;

(d) Use a display monitor size sufficient to support diagnostic needs used in the telemedicine services; and

(e) Use video and audio transmission equipment with less than a three hundred (300) millisecond delay.

910.14 Effective January 1, 2017, DHCF shall send a Telemedicine Program Evaluation survey to providers, no more than every three (3) months, via email or regular US mail. A provider shall have thirty (30) calendar days to respond to the survey via email or regular US mail.

910.15 A telemedicine provider shall develop a confidentiality compliance plan in accordance with Health Insurance, Portability, and Accountability Act of 1996, approved August 21, 1996 (Pub. L. No. 104-191, 110 Stat. 1936) (HIPAA) administrative simplification guidance from the Department of Health and Human Services, Office of Civil Rights, available at: http://www.hhs.gov/sites/default/files/hipaa-simplification-201303.pdf to incorporate appropriate administrative, physical, and technical safeguards around data encryption (both for data in transit and at rest) and to protect the privacy of telemedicine participants and ensure compliance with the HIPAA and the Health Information Technology for Economic and Clinical Health (HITECH) Act of 2009, approved February 17, 2009 (Pub. L. No. 111-5, §§ 13001-424, 123 Stat. 226).

910.16 When clinically indicated, an originating site provider or its designee shall be in attendance during the patient's medical encounter with the distant site professional. An originating site provider shall not be required to be in attendance when the beneficiary prefers to be unaccompanied because the beneficiary feels the subject is sensitive. Sensitive topics may include counselling related to abuse, or other psychiatric matters. An originating site provider shall note their attendance status in the patient's medical record.

910.17 When DCPS or DCPCS is the originating site provider, a primary support professional shall be in attendance during the patient's medical encounter, consistent with Subsection 910.16.

910.18 A primary support professional is an individual designated by the school to provide supervisory services for school-based healthcare services. A primary support professional

includes a paraprofessional, classroom teacher, resource room staff, library media specialist, and any other certified or classified school staff member.

910.19 Each telemedicine provider shall maintain complete and accurate beneficiary records of services provided (not to include videos) for each beneficiary that document the specific healthcare services provided to each beneficiary for a period of ten (10) years or until all audits are completed, whichever is longer.

910.20 All beneficiary, personnel and telemedicine program administrative and fiscal records shall be maintained so that they are accessible and readily retrievable, upon request, for inspection and review or audit by DHCF, the federal Centers for Medicare and Medicaid Services, and other authorized government officials or their agents.

910.21 A provider shall not be reimbursed by Medicaid for healthcare services delivered via telemedicine when:

(a) A provider is only assisting the beneficiary with technology and not delivering a healthcare service; or

(b) The healthcare service is incomplete.

910.22 Reimbursement shall be prohibited for an incomplete healthcare service when the service is not fully rendered due to technical interruptions or other service interruptions resulting in the partial delivery of care.

910.23 Telemedicine providers shall be subject to the standard billing practices that are in place for the healthcare services provided in accordance with the relevant regulations, policies, or transmittals issued by the DHCF.

910.24 Where a FQHC provides any of the allowable healthcare services described within this Section at the originating or distant site, the FQHC shall be reimbursed at the applicable rate, prospective payment system (PPS), alternative payment methodology (APM), or fee-for-service rate, consistent with Chapter 45 (Medicaid Reimbursement for Federally Qualified Health Centers) of Title 29 DCMR and Subsection 910.27.

910.25 If an FQHC is both the originating and distant site provider, and both sites deliver the same healthcare service as outlined in Subsection 910.24, only the distant site will be eligible for reimbursement.

910.26 In accordance with the DCPS/DCPCS Medicaid payment methodology, when DCPS or DCPCS provides any of the allowable healthcare services at the originating or distant site, the provider shall only be reimbursed for distant site healthcare services that are Medicaid eligible and are to be delivered in a licensed education agency.

910.27 In accordance with the Mental Health Rehabilitation Services Medicaid payment regulations under Chapter 54 of Title 29 DCMR, and consistent with Chapter 34 of Title 22-A DCMR, when an originating site and a distant site are CSAs, and the same provider

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identification number is used for a service delivered via telemedicine, only the distant site provider shall be eligible for reimbursement of the allowable healthcare services described within this section.

910.28 Telemedicine providers shall not be reimbursed for a telemedicine transaction fee and/or facility fee.

910.29 Telemedicine providers shall not be reimbursed for store and forward and remote patient monitoring.

910.30 When a beneficiary's home is the originating site, the distant site provider shall ensure the technology in use meets the minimum requirements set forth in Subsection 910.13.

910.99 **DEFINITIONS**

When used in this section, the following terms and phrases shall have the meanings ascribed below:

Bandwidth - A measure of the amount of data that can be transmitted at one time through a communication conduit

Core Service Agency - A Department of Behavioral Health (DBH) certified community-based mental health provider that has entered into a Human Care Agreement with DBH to provide specified mental health rehabilitation services.

Data Encryption - The conversion of electronic data into another form which cannot be easily understood by anyone except authorized parties.

Designee - A person designated by the provider based on the person's clinical or administrative qualification to facilitate the delivery of health services by way of telemedicine at the originating site.

Echo Cancellation - A process which removes unwanted echoes from the signal on an audio and video telecommunications system.

Facility Fee - An add-on payment to a provider for the use of their facility for telemedicine.

Fee-For-Service Program - A healthcare payment system that provides Medicaid reimbursement to providers in accordance with a fee schedule, rather than through a Managed Care Organization.

Incomplete Service - A healthcare service that is not fully rendered for reasons to include any technical interruptions or other service interruptions that result in the partial delivery of care.

Medical Encounter - A healthcare service delivered through a through a two-way, real time, interactive video-audio communication system.

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Remote Patient Monitoring - A digital technology that collects medical and/or health data from individuals in one location and electronically transmits that information securely to health care providers in a different location for assessment and recommendations.

Store and Forward - A technology that allows for the electronic transmission of medical information, such as digital images, documents, and pre-recorded videos through secure email transmission.

Supervisory Services – The oversight of services delivered via telemedicine by a primary support professional at the originating site.

Transaction Fee - An add-on payment to a provider for delivering a healthcare service via telemedicine.

SOURCE: Final Rulemaking published at 31 DCR 465 (February 3, 1984); as amended by Final Rulemaking published at 66 DCR 16234 (December 13, 2019); as amended by Final Rulemaking published at 67 DCR 9734 (August 14, 2020).

Private Payer Reimbursement

Code of the District of Columbia
Title 31. Insurance and Securities.
Chapter 31A. Health Benefits Plans Prompt Payment.

§ 31–3131. Definitions.

…

(4) ”Health benefits plan” means any accident and health insurance policy or certificate, hospital and medical services corporation contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement, or plan provided by another benefit arrangement. The term “health benefit plan” does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplemental or long-term care insurance; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; coverage issued as a supplement to liability insurance, insurance arising out of a workers’ compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.
(5) ”Health insurer” means any person that provides one or more health benefit plans or insurance in the District of Columbia, including an insurer, a hospital and medical services corporation, a fraternal

benefit society, a health maintenance organization, a multiple employer welfare arrangement, or any other person providing a plan of health insurance subject to the authority of the Commissioner.
…

(7) ”Provider” means a health care practitioner, group of health care practitioners, or other entity licensed, certified, or otherwise authorized by law to provide hospital, physician, or other heath care services.
…

Code of the District of Columbia
Title 31. Insurance and Securities.
Chapter 38D. Telehealth Reimbursement.

§ 31–3861. Definitions.

For the purposes of this chapter, the term:
(1) ”Health benefits plan” shall have the same meaning as provided in § 31-3131(4).
(2) ”Health insurer” shall have the same meaning as provided in § 31-3131(5).
(2A) ”Postpartum” means the time after delivery when maternal physiological changes related to pregnancy return to the nonpregnant state, which may last for as long as 12 months after delivery.
(3) ”Provider” shall have the same meaning as provided in § 31-3131(7).
(4) ”Telehealth” means the delivery of healthcare services through the use of interactive audio, video, or other electronic media used for the purpose of diagnosis, consultation, or treatment; provided, that services delivered through email messages or facsimile transmissions are not included.

§ 31–3862. Private reimbursement.
(a) A health insurer offering a health benefits plan in the District may not deny coverage for a healthcare service on the basis that the service is provided through telehealth if the same service would be covered when delivered in person.
(b) A health insurer shall reimburse the provider for the diagnosis, consultation, or treatment of the insured when the service is delivered through telehealth.
(c) A health insurer shall not be required to:
    (1) Reimburse a provider for healthcare service delivered through telehealth that is not a covered under the health benefits plan; and
    (2) Reimburse a provider who is not a covered provider under the health benefits plan.
(d) A health insurer may require a deductible, copayment, or coinsurance amount for a healthcare service delivered through teleheath; provided, that the deductible, copayment, or coinsurance amount may not exceed the amount applicable to the same service when it is delivered in person.
(e) A health insurer shall not impose any annual or lifetime dollar maximum on coverage for telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services under the health benefits plan.
(f) Nothing in this chapter shall preclude the health insurer from undertaking utilization review to determine the appropriateness of telehealth as a means of delivering a healthcare service; provided, that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person.

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Florida

Requirements and Permissible Practices

Editorial Note: Oral health practitioners are licensed under Chapter 466, which is referenced under the definition of telehealth provider.

FLA. STAT. § 456.47 Use of telehealth to provide services.—
(1) DEFINITIONS.—As used in this section, the term:
(a) ”Telehealth” means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.
(b) ”Telehealth provider” means any individual who provides health care and related services using telehealth and who is licensed or certified under s. 393.17; part III of chapter 401; chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part III, part IV, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part I or part II of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491; who is licensed under a multistate health care licensure compact of which Florida is a member state; or who is registered under and complies with subsection (4).

(2) PRACTICE STANDARDS.—
(a) A telehealth provider has the duty to practice in a manner consistent with his or her scope of practice and the prevailing professional standard of practice for a health care professional who provides in-person health care services to patients in this state.
(b) A telehealth provider may use telehealth to perform a patient evaluation. If a telehealth provider conducts a patient evaluation sufficient to diagnose and treat the patient, the telehealth provider is not required to research a patient’s medical history or conduct a physical examination of the patient before using telehealth to provide health care services to the patient.
(c) A telehealth provider may not use telehealth to prescribe a controlled substance unless the controlled substance is prescribed for the following:
1. The treatment of a psychiatric disorder;
2. Inpatient treatment at a hospital licensed under chapter 395;
3. The treatment of a patient receiving hospice services as defined in s. 400.601; or
4. The treatment of a resident of a nursing home facility as defined in s. 400.021.
(d) A telehealth provider and a patient may be in separate locations when telehealth is used to provide health care services to a patient.
(e) A nonphysician telehealth provider using telehealth and acting within his or her relevant scope of practice, as established by Florida law or rule, is not in violation of s. 458.327(1)(a) or s. 459.013(1)(a).

(3) RECORDS.—A telehealth provider shall document in the patient’s medical record the health care services rendered using telehealth according to the same standard as used for in-person services. Medical records, including video, audio, electronic, or other records generated as a result of providing such services, are confidential pursuant to ss. 395.3025(4) and 456.057.

(4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—

(a) A health care professional not licensed in this state may provide health care services to a patient located in this state using telehealth if the health care professional registers with the applicable board, or the department if there is no board, and provides health care services within the applicable scope of practice established by Florida law or rule.
(b) The board, or the department if there is no board, shall register a health care professional not licensed in this state as a telehealth provider if the health care professional:

1. Completes an application in the format prescribed by the department;
2. Is licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued to a Florida-licensed provider specified in paragraph (1)(b);
3. Has not been the subject of disciplinary action relating to his or her license during the 5-year period immediately prior to the submission of the application;
4. Designates a duly appointed registered agent for service of process in this state on a form prescribed by the department; and
5. Demonstrates to the board, or the department if there is no board, that he or she is in compliance with paragraph (e).

The department shall use the National Practitioner Data Bank to verify the information submitted under this paragraph, as applicable.
(c) The website of a telehealth provider registered under paragraph (b) must prominently display a hyperlink to the department's website containing information required under paragraph (h).
(d) A health care professional may not register under this subsection if his or her license to provide health care services is subject to a pending disciplinary investigation or action, or has been revoked in any state or jurisdiction. A health care professional registered under this subsection must notify the appropriate board, or the department if there is no board, of restrictions placed on his or her license to practice, or any disciplinary action taken or pending against him or her, in any state or jurisdiction. The notification must be provided within 5 business days after the restriction is placed or disciplinary action is initiated or taken.
(e) A provider registered under this subsection shall maintain professional liability coverage or financial responsibility, that includes coverage or financial responsibility for telehealth services provided to patients not located in the provider's home state, in an amount equal to or greater than the requirements for a licensed practitioner under s. 456.048, s. 458.320, or s. 459.0085, as applicable.
(f) A health care professional registered under this subsection may not open an office in this state and may not provide in-person health care services to patients located in this state.
(g) A pharmacist registered under this subsection may only use a pharmacy permitted under chapter 465, a nonresident pharmacy registered under s. 465.0156, or a nonresident pharmacy or outsourcing facility holding an active permit pursuant to s. 465.0158 to dispense medicinal drugs to patients located in this state.
(h) The department shall publish on its website a list of all registrants and include, to the extent applicable, each registrant's:

1. Name.
2. Health care occupation.
3. Completed health care training and education, including completion dates and any certificates or degrees obtained.
4. Out-of-state health care license with the license number.
5. Florida telehealth provider registration number.
6. Specialty.
7. Board certification.

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8. Five-year disciplinary history, including sanctions and board actions.
9. Medical malpractice insurance provider and policy limits, including whether the policy covers claims that arise in this state.
10. The name and address of the registered agent designated for service of process in this state.

(i) The board, or the department if there is no board, may take disciplinary action against an out-of-state telehealth provider registered under this subsection if the registrant:

1. Fails to notify the applicable board, or the department if there is no board, of any adverse actions taken against his or her license as required under paragraph (d).
2. Has restrictions placed on or disciplinary action taken against his or her license in any state or jurisdiction.
3. Violates any of the requirements of this section.
4. Commits any act that constitutes grounds for disciplinary action under s. 456.072(1) or the applicable practice act for Florida-licensed providers.

Disciplinary action taken by a board, or the department if there is no board, under this paragraph may include suspension or revocation of the provider's registration or the issuance of a reprimand or letter of concern. A suspension may be accompanied by a corrective action plan as determined by the board, or the department if there is no board, the completion of which may lead to the suspended registration being reinstated according to rules adopted by the board, or the department if there is no board.

(5) VENUE.—For the purposes of this section, any act that constitutes the delivery of health care services is deemed to occur at the place where the patient is located at the time the act is performed or in the patient's county of residence. Venue for a civil or administrative action initiated by the department, the appropriate board, or a patient who receives telehealth services from an out-of-state telehealth provider may be located in the patient's county of residence or in Leon County.

(6) EXEMPTIONS.—A health care professional who is not licensed to provide health care services in this state but who holds an active license to provide health care services in another state or jurisdiction, and who provides health care services using telehealth to a patient located in this state, is not subject to the registration requirement under this section if the services are provided:
(a) In response to an emergency medical condition as defined in s. 395.002; or
(b) In consultation with a health care professional licensed in this state who has ultimate authority over the diagnosis and care of the patient.

(7) RULEMAKING.—The applicable board, or the department if there is no board, may adopt rules to administer this section.

Medicaid Reimbursement

Rule: 59G-1.057 Telemedicine.
(1) This rule applies to any person or entity prescribing or reviewing a request for Florida Medicaid services and to all providers of Florida Medicaid services that are enrolled in or registered with the Florida Medicaid program.
(2) Definition. Telemedicine – The practice of health care delivery by a practitioner who is located at a site other than the site where a recipient is located for the purposes of evaluation, diagnosis, or treatment.
(3) Who Can Provide. Practitioners licensed within their scope of practice to perform the service.

(4) Coverage. Florida Medicaid reimburses for telemedicine services using interactive telecommunications equipment that includes, at a minimum audio and video equipment permitting two-way, real time, interactive communication between a recipient and a practitioner.
(5) Exclusion. Florida Medicaid does not reimburse for:
(a) Telephone conversations, chart review(s), electronic mail messages, or facsimile transmissions.
(b) Equipment required to provide telemedicine services.
(6) Reimbursement. The following applies to practitioners rendering services in the fee-for-service delivery system:
(a) Florida Medicaid reimburses the practitioner who is providing the evaluation, diagnosis, or treatment recommendation located at a site other than where the recipient is located.
(b) Providers must include modifier GT on the CMS-1500 claim form, incorporated by reference in Rule 59G-4.001, F.A.C.

Private Payer Reimbursement

FLA. STAT. § 641.31 Health maintenance contracts.—
…
(45) A contract between a health maintenance organization issuing major medical individual or group coverage and a telehealth provider, as defined in s. 456.47, must be voluntary between the health maintenance organization and the provider and must establish mutually acceptable payment rates or payment methodologies for services provided through telehealth. Any contract provision that distinguishes between payment rates or payment methodologies for services provided through telehealth and the same services provided without the use of telehealth must be initialed by the telehealth provider.
…
FLA. STAT. § 627.42396 Reimbursement for telehealth services.—
A contract between a health insurer issuing major medical comprehensive coverage through an individual or group policy and a telehealth provider, as defined in s. 456.47, must be voluntary between the insurer and the provider and must establish mutually acceptable payment rates or payment methodologies for services provided through telehealth. Any contract provision that distinguishes between payment rates or payment methodologies for services provided through telehealth and the same services provided without the use of telehealth must be initialed by the telehealth provider.

Georgia

Private Payer Reimbursement

O.C.G.A. § 33-24-56.4

§ 33-24-56.4. Short title; definitions; payment for telehealth services

(a) This Code section shall be known and may be cited as the "Georgia Telehealth Act."

(b) As used in this Code section, the term:

(1) "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, which may include the home of the health care provider.

(2) "Health benefit policy" means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, any health insurance plan established under Article 1 of Chapter 18 of Title 45 or under Article 7 of Chapter 4 of Title 49.

(3) "Insurer" means an accident and sickness insurer, fraternal benefit society, hospital service corporation, medical service corporation, health care corporation, health maintenance organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies.

(3.1) "Interprofessional consultation" means an assessment and management service in which a patient's health care provider seeks treatment advice from a consulting provider with specific specialty expertise to assist the patient's health care provider in diagnosing or treating the patient.

(4) "Originating site" means a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, which may include a patient's home, workplace, or school; provided, however, that notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(5) "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.

(6) "Telehealth" means the use of information and communications technologies, including, but not limited to, telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health related education, public health, and health administration.

(7) "Telemedicine" means a form of telehealth which is the delivery of clinical health care services by means of real-time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support 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 as prescribed by applicable federal and state laws, rules, and regulations, and legally allowed to practice in this state, while such patient is at an originating site and the health care provider is at a distant site. Such term includes audio-only telephone only when no other means of real-time two-way audio, visual, or other telecommunications or electronic communications are available to the patient due to lack of availability of such real-time two-way audio, visual, or other telecommunications or electronic communications, due to lack of adequate broadband access, or because the use of other means of real-time two-way audio, visual, or other telecommunications or electronic communications is infeasible, impractical, or otherwise not

medically advisable, as determined by the health care provider providing telemedicine services to the patient or as determined by another health care provider with an existing relationship with the patient.

(c) It is the intent of the General Assembly to mitigate geographic discrimination in the delivery of health care by recognizing the application of and payment for covered medical care provided by means of telehealth, provided that such services are provided by a physician or by another health care practitioner or professional acting within the scope of practice of such health care practitioner or professional and in accordance with the provisions of Code Section 43-34-31.

(d) Each insurer proposing to issue a health benefit policy shall provide coverage for the cost of health care services provided through telehealth or telemedicine as directed through regulations promulgated by the department.

(e) An insurer shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through in-person consultation or contact between a health care provider and a patient for services appropriately provided through telemedicine services.

(f) No insurer shall require an in-person consultation or contact before a patient may receive telemedicine services from a health care provider, except for the purposes of initial installation, setup, or delivery of in-home telehealth devices or services, or as otherwise required by state or federal law, rule, or regulation.

(g) An insurer shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer is responsible for coverage for the provision of the same service through in-person consultation or contact; provided, however, that nothing in this subsection shall require (1) a health care provider or telemedicine company to accept more reimbursement than they are willing to charge or (2) an insurer to pay for a telemedicine service provided through an audio-only call for any service other than mental or behavioral health services. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health care services; provided, however, that this shall not require the insurer to include payment for transmission costs if the originating or distant site is a home.

(h) If a treating provider obtains interprofessional consultation from a consulting provider for a patient for whom the treating provider conducted an examination through telemedicine services, an insurer shall not require the consulting provider to conduct, either in-person or through telemedicine services, an examination of such patient in order to receive reimbursement, unless such examination by the consulting provider would be required for the provision of the same services when the initial examination of the patient by the treating provider was conducted through in-person consultation or contact.

(i) No insurer shall impose any deductible or annual or lifetime dollar maximum on coverage for telemedicine services other than a deductible or annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this Code section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the health benefit policy.

(j) No insurer shall require its insureds to use telemedicine services in lieu of in-person consultation or contact.

(k) On and after January 1, 2020, every health benefit policy that is issued, amended, or renewed shall include payment for services that are covered under such health benefit policy and are appropriately provided through telehealth in accordance with Code Section 43-34-31, this Code section, and generally

accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided.
(l) No insurer shall impose any type of utilization review on telemedicine services unless such type of utilization review is imposed when the same services are provided through in-person consultation or contact.
(m) No insurer shall restrict coverage of telehealth or telemedicine services to services provided by a particular vendor, or other third party, or services provided through a particular electronic communications technology platform; provided, however, that nothing in this Code section shall require an insurer to cover any telehealth or telemedicine services provided through an electronic communications technology platform that does not comply with applicable state and federal privacy laws.
(n) No insurer shall place any restrictions on prescribing medications through telemedicine that are more restrictive than what is required under applicable state and federal laws for prescribing medications through in-person consultation or contact.
(o) A health care provider shall maintain documentation of each health care service provided through telemedicine in a manner that is at least as extensive and thorough as when the health care service is provided through in-person consultation or contact and, upon request, make such documentation available in accordance with applicable state and federal law.
(p) Nothing in this Code section shall be construed to limit, alter, or expand the scope of practice, standard of care, prescriptive authority, or supervision requirements for health care providers or privacy rights, other than as provided in applicable federal law and state laws, rules, and regulations.

Hawaii

Medicaid Reimbursement

Hawaii Statute

[§346-59.1] Coverage for telehealth. (a) The State's medicaid managed care and fee-for-service programs shall not deny coverage for any service provided through telehealth that would be covered if the service were provided through in-person consultation between a patient and a health care provider.

(b) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(c) There shall be no geographic restrictions or requirements for telehealth coverage or reimbursement under this section.

(d) There shall be no restrictions on originating site requirements for telehealth coverage or reimbursement under this section.

(e) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(f) Notwithstanding any other law to the contrary, the provisions of this section shall comply with the applicable federal requirements related to utilization, coverage, and reimbursement for telehealth services.

(g) For the purposes of this section:

"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's home, and other non-medical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this section.

Hawaii Administrative Rules

§17-1737-51.1 Telehealth services.

(a) Telehealth services is the use of communication equipment to link health care practitioners and patients in different locations. It may be used in place of a face-to-face, "hands on" encounter for consultation, office visits, individual psychotherapy and pharmacologic management. For purposes of this section, the term "patient" refers to individuals eligible for medical assistance.

(b) Telehealth services may be provided to patients only if they are presented from an originating site located in either a:

(1) Rural Health Professional Shortage Area (HPSA) as defined by section 332(a)(1)(A) of the Public Health Service Act;

(2) In a county outside of a Metropolitan Statistical Area, as defined by Section 1886(d)(2)(D) of the Social Security Act; or

(3) From an entity that participates in a Federal telemedicine demonstration project that has been approved by the Secretary of Health and Human Services as of December 31, 2000.

(c) Interactive audio and video telecommunication systems must be used. Interactive telecommunications systems must be multi-media communications that, at a minimum, include audio and video equipment, permitting real-time consultation among the patient, consulting practitioner, and referring practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the requirements of interactive telecommunications system. As a condition of payment the patient must be present and participating in the telehealth visit.

(d) An originating site is the location of a patient at the time the service being furnished via a telecommunications system occurs. Originating sites authorized to furnish telehealth services are listed below:

(1) The office of a physician or practitioner;

(2) A hospital;

(3) A critical access hospital;

(4) A rural health clinic; and

(5) A federally qualified health center. An exception to this provision is an entity participating in a Federal telehealth demonstration project that is approved by or is receiving funding from the Secretary of Health and Human Services as of December 31, 2000. An entity participating in a Federal telehealth demonstration project qualifies as an originating site regardless of geographic location.

(e) A distant site is the site at which the physician or practitioner delivering the service is located at the time the service is provided via a telecommunications system.

(f) Coverage of telehealth services is based on Medicare's criteria. Each provider must bill the appropriate CPT procedure code with the modifier code "TM" indicating the services were provided via telehealth. Only providers eligible to participate in the medical assistance program will be reimbursed for telehealth services. Reimbursements to an originating site and distant site are based on the Hawaii Medicaid fee schedule.

Third Party Reimbursement

Hawaii Statute

§431:10A-116.3 Coverage for telehealth. (a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the health care provider.

(b) No accident and health or sickness insurance plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the insurer, and the health care provider.

(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All insurers shall provide current and prospective insureds with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to the issuance of a policy, contract, plan, or agreement, and upon request after the policy, contract, plan, or agreement has been issued.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(g) For the purposes of this section:

"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, health care facility, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based

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communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.

§432D-23.5 Coverage for telehealth.

(a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the health care provider.

(b) No health maintenance organization plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the health maintenance organization, and the health care provider.

(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider involved in a telehealth interaction between the patient and the health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All health maintenance organizations shall provide current and prospective insureds with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to enrollment in a policy, contract, plan, or agreement and upon request after enrollment in the policy, contract, plan, or agreement.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(g) For the purposes of this section:

"Distant site" means the location of the health care provider delivering services through telehealth at the time the services are provided.

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

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"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, health care facility, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.

§432:1-601.5 Coverage for telehealth.

(a) It is the intent of the legislature to recognize the application of telehealth as a reimbursable service by which an individual shall receive medical services from a health care provider without face-to-face contact with the health care provider.

(b) No mutual benefit society plan that is issued, amended, or renewed shall require face-to-face contact between a health care provider and a patient as a prerequisite for payment for services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services were provided. The coverage required in this section may be subject to all terms and conditions of the plan agreed upon among the enrollee or subscriber, the mutual benefit society, and the health care provider.

(c) Reimbursement for services provided through telehealth shall be equivalent to reimbursement for the same services provided via face-to-face contact between a health care provider and a patient. Nothing in this section shall require a health care provider to be physically present with the patient at an originating site unless a health care provider at the distant site deems it necessary.

(d) Notwithstanding chapter 453 or rules adopted pursuant thereto, in the event that a health care provider-patient relationship does not exist between the patient and the health care provider to be involved in a telehealth interaction between the patient and health care provider, a telehealth mechanism may be used to establish a health care provider-patient relationship.

(e) All insurers shall provide current and prospective enrollees or subscribers with written disclosure of coverages and benefits associated with telehealth services, including information on copayments, deductibles, or coinsurance requirements under a policy, contract, plan, or agreement. The information provided shall be current, understandable, and available prior to the issuance of a policy, contract, plan, or agreement, and upon request after the policy, contract, plan, or agreement has been issued.

(f) Services provided by telehealth pursuant to this section shall be consistent with all federal and state privacy, security, and confidentiality laws.

(g) For the purposes of this section:

"Health care provider" means a provider of services, as defined in title 42 United States Code section 1395x(u), a provider of medical and other health services, as defined in title 42 United States Code section 1395x(s), other practitioners licensed by the State and working within their scope of practice, and any other person or organization who furnishes, bills, or is paid for health care in the normal course of business, including but not limited to primary care providers, mental health providers, oral health

providers, physicians and osteopathic physicians licensed under chapter 453, advanced practice registered nurses licensed under chapter 457, psychologists licensed under chapter 465, and dentists licensed under chapter 448.

"Originating site" means the location where the patient is located, whether accompanied or not by a health care provider, at the time services are provided by a health care provider through telehealth, including but not limited to a health care provider's office, hospital, health care facility, a patient's home, and other nonmedical environments such as school-based health centers, university-based health centers, or the work location of a patient.

"Telehealth" means the use of telecommunications services, as defined in section 269-1, to encompass four modalities: store and forward technologies, remote monitoring, live consultation, and mobile health; and which shall include but not be limited to real-time video conferencing-based communication, secure interactive and non-interactive web-based communication, and secure asynchronous information exchange, to transmit patient medical information, including diagnostic-quality digital images and laboratory results for medical interpretation and diagnosis, for the purpose of delivering enhanced health care services and information while a patient is at an originating site and the health care provider is at a distant site. Standard telephone contacts, facsimile transmissions, or e-mail text, in combination or by itself, does not constitute a telehealth service for the purposes of this chapter.

Idaho

Requirements and Permissible Practices

Idaho Statutes
Title 54 Professions, Vocations, And Businesses
Chapter 57 Idaho Telehealth Access Act

54-5701. SHORT TITLE.

This chapter shall be known and may be cited as the "Idaho Telehealth Access Act."

54-5702. LEGISLATIVE FINDINGS. The legislature hereby finds the following:
(1) Telehealth services enhance access to health care, make delivery of health care more cost-effective and distribute limited health care provider resources more efficiently.
(2) Citizens with limited access to traditional health care may be diagnosed and treated sooner through telehealth services than they would be otherwise, resulting in improved health outcomes and less costly treatments due to early detection and prevention.
(3) Telehealth services address an unmet need for health care by persons who have limited access to such care due to provider shortages or geographic barriers.
(4) Telehealth services provide increased capacity for appropriate care in the appropriate location at the appropriate time to better serve patients, providers and communities.
(5) When practiced safely, telehealth services result in improvement in health outcomes by expanding health care access for the people of Idaho.

54-5703. DEFINITIONS. As used in this chapter:
(1) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site over a secure connection that complies with state and federal security and privacy laws.
(2) "Distant site" means the site at which a provider delivering telehealth services is located at the time the service is provided.
(3) "Originating site" means the location of a patient at the time telehealth services are provided, including but not limited to a patient's home.
(4) "Provider" means any health care provider who is licensed, required to be licensed, or, if located outside of Idaho, would be required to be licensed if located in Idaho, pursuant to title 54, Idaho Code, to deliver health care consistent with his or her license.
(5) "Synchronous interaction" means real-time communication through interactive technology that enables a provider and a patient at two (2) locations separated by distance to interact simultaneously through two-way video and audio or audio transmission.
(6) "Telehealth services" means health care services provided by a provider to a person through the use of electronic communications, information technology, asynchronous store and forward transfer or synchronous interaction between a provider at a distant site and a patient at an originating site. Such services include but are not limited to clinical care, health education, home health and facilitation of self-managed care and caregiver support, and the use of synchronous or asynchronous telecommunications technologies by a provider to deliver patient health care services, including but not limited to assessment of, diagnosis of, consultation with, treatment of, and remote monitoring of a patient; transfer of medical data; patient and professional health-related education; public health

services; and health administration. The term "telehealth services" does not include audio in isolation without access to and review of the patient's medical records, electronic mail messages that are not compliant with the health insurance portability and accountability act (HIPAA), or facsimile transmissions.
(7) "Telehealth technologies" means synchronous or asynchronous telecommunications technologies capable of assisting a provider to deliver patient health care services, including but not limited to assessment of, diagnosis of, consultation with, treatment of, and remote monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration.

54-5704. SCOPE OF PRACTICE.
A provider offering telehealth services must at all times act within the scope of the provider's license and according to all applicable laws and rules, including, but not limited to, this chapter and the community standard of care.

54-5705. PROVIDER-PATIENT RELATIONSHIP.
(1) If a provider offering telehealth services does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio or audio-visual interaction; provided however, that the applicable Idaho community standard of care must be satisfied. Nothing in this section shall prohibit electronic communications:

(a) Between a provider and a patient with a preexisting provider-patient relationship;
(b) Between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;
(c) Between a provider and a patient where the provider is taking call on behalf of another provider in the same community who has a provider patient relationship with the patient; or
(d) In an emergency.

(2) As used in this section, "emergency" means a situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm.

54-5706. EVALUATION AND TREATMENT.
Prior to providing treatment, including a prescription drug order, a provider shall obtain and document a patient's relevant clinical history and current symptoms to establish the diagnosis and identify underlying conditions and contraindications to the treatment recommended. Treatment recommendations provided through telehealth services shall be held to the applicable Idaho community standard of care that applies in an in-person setting. Treatment based solely on an online questionnaire does not constitute an acceptable standard of care.

54-5707. PRESCRIPTIONS.
(1) A provider with an established provider patient relationship, including a relationship established pursuant to section 54-5705, Idaho Code, may issue prescription drug orders using telehealth services within the scope of the provider's license and according to any applicable laws, rules and regulations, including the Idaho community standard of care; provided however, that the prescription drug shall not be a controlled substance unless prescribed in compliance with 21 U.S.C. section 802(54)(A).
(2) Nothing in this chapter shall be construed to expand the prescriptive authority of any provider beyond what is authorized by the provider's licensing board.

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54-5708. INFORMED CONSENT.
A patient's informed consent for the use of telehealth services shall be obtained as required by any applicable law.

54-5709. CONTINUITY OF CARE.
A provider of telehealth services shall be available for follow-up care or to provide information to patients who make use of such services.

54-5710. REFERRAL TO OTHER SERVICES.
A provider shall be familiar with and have access to available medical resources, including emergency resources near the patient's location, in order to make appropriate patient referrals when medically indicated.

54-5711. MEDICAL RECORDS.
A provider offering telehealth services shall generate and maintain medical records for each patient using telehealth services in compliance with any applicable state and federal laws, rules, and regulations, including the health insurance portability and accountability act (HIPAA), P.L. 104-191 (1996), and the health information technology for economic and clinical health act (HITECH), P.L. 111-115 (2009). Such records shall be accessible to other providers, if the patient has given permission, and to the patient in accordance with applicable laws, rules, and regulations.

54-5712. ENFORCEMENT AND DISCIPLINE.
A provider is prohibited from offering telehealth services in his or her practice if the provider is not in full compliance with applicable laws, rules and regulations, including this act and the Idaho community standard of care. State licensing boards shall be authorized to enforce the provisions of this chapter relating to the practice of individuals they license. A provider who fails to comply with applicable laws, rules and regulations is subject to discipline by his or her licensing board.

54-5713. RULEMAKING.
Any board authorized by title 54, Idaho Code, to license providers may promulgate rules relating to telehealth services pursuant to this chapter and consistent with the provisions contained herein.

24.31.01 – Rules of the Idaho Board of Dentistry
055. TELEHEALTH SERVICES. Definitions applicable to these rules are those definitions set forth in the Idaho Telehealth Access Act and in Section 54-5703, Idaho Code.
01. Licensure and Location. Any dentist who provides any telehealth services to patients located in Idaho must hold an active Idaho license.
02. Additional Requirements. In addition to the requirements set forth in Section 54-5705, Idaho Code, during the first contact with the patient, a dentist licensed by the Board who is providing telehealth services must:

a. Verify the location and identity of the patient;
b. Disclose to the patient the dentist's identity, their current location, telephone number, and Idaho license number; and
c. Obtain appropriate consents from the patient after disclosures regarding the delivery models and treatment methods or limitations, including a special informed consent regarding the use of telehealth technologies.

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03. Standard of Care. A dentist providing telehealth services to patients located in Idaho must comply with the applicable Idaho community standard of care. If a patient's presenting symptoms and conditions require a physical examination in order to make a diagnosis, the dentist may not provide diagnosis or treatment through telehealth services unless or until such information is obtained.
04. Informed Consent. In addition to the requirements of Section 54-5708, Idaho Code, evidence documenting appropriate patient informed consent for the use of telehealth technologies must be obtained and maintained at regular intervals consistent with the community standard of care. Appropriate informed consent should, at a minimum, include the following terms:

a. Verification. Identification of the patient, the dentist, and the dentist's credentials;
b. Telehealth Determination. Agreement of the patient that the provider will determine whether or not the condition being diagnosed and/or treated is appropriate for telehealth services;
c. Security Measures Information. Information on the security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy and notwithstanding such measures;
d. Potential Information Loss. Disclosure that information may be lost due to technical failures.

Medicaid Reimbursement

IDAPA 16 – IDAHO DEPARTMENT OF HEALTH AND WELFARE
Division of Medicaid
16.03.09 – Medicaid Basic Plan Benefits

210. CONDITIONS FOR PAYMENT.
…
09. Services Delivered Via Telehealth. Services delivered via telehealth as defined in Title 54, Chapter 57, Idaho Code, must be identified as such in accordance with billing requirements published in the Idaho Medicaid Provider Handbook. Telehealth services billed without being identified as such are not covered. Services delivered via telehealth may be reimbursed within limitations defined by the Department in the Idaho Medicaid Provider Handbook. Fee for service reimbursement is not available for an electronic mail message (e-mail), or facsimile transmission (fax).
…
02. Face-to-Face Encounter for Home Health Services, Medical Supplies, Equipment, and Appliances. (7-1-21)T
a. To initiate home health services, medical supplies, equipment, and appliances, the participant's physician, or a licensed practitioner of the healing arts as authorized in this rule, must document a face-to-face encounter related to the primary reason the patient requires home health services. Documentation must indicate the practitioner who conducted the encounter, and the date of the encounter as described in the CMS/Medicare DME coverage manual.
…
b. The face-to-face encounter may occur via telehealth, as defined in Subsection 210.09 of these rules.
…
04. Service Limitations.
…
f. Telehealth modalities are covered to the extent they are allowed under the rules of the applicable board of licensing. The Department will define limitations on telehealth in the provider handbook to promote quality services and program integrity.

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Illinois

Requirements and Permissible Practices

PROFESSIONS, OCCUPATIONS, AND BUSINESS OPERATIONS
(225 ILCS 25/) Illinois Dental Practice Act.

(225 ILCS 25/4) Illinois Dental Practice Act.
…
"Teledentistry" means the use of telehealth systems and methodologies in dentistry and includes patient care and education delivery using synchronous and asynchronous communications under a dentist's authority as provided under this Act.
(225 ILCS 25/13.5) Sec. 13.5. Training programs for public health dental hygienists.
…
(b) Training programs for a public health dental hygienist must:
…
(2) require completion of 5 hours of didactic courses in the following topic areas: special needs dentistry, teledentistry, nutritional needs of geriatric and low-income patients, communication techniques with non-English speaking patients, cultural competency, and professional ethics;
…
PROFESSIONS, OCCUPATIONS, AND BUSINESS OPERATIONS
(225 ILCS 150/) Telehealth Act. as amended by HB 3308
(225 ILCS 150/1)
Sec. 1. Short title. This Act may be cited as the Telehealth Act.
(225 ILCS 150/5)
Sec. 5. Definitions. As used in this Act:
"Asynchronous store and forward system" means the transmission of a patient's medical information through an electronic communications system at an originating site to a health care professional or facility at a distant site that does not require real-time or synchronous interaction between the health care professional and the patient.
"Distant site" means the location at which the health care professional rendering the telehealth service is located.
"Established patient" means a patient with a relationship with a health care professional in which there has been an exchange of an individual's protected health information for the purpose of providing patient care, treatment, or services.
"E-visit" means a patient-initiated non-face-to-face communication through an online patient portal between an established patient and a health care professional.
"Facility" includes a facility that is owned or operated by a hospital under the Hospital Licensing Act or University of Illinois Hospital Act, a facility under the Nursing Home Care Act, a rural health clinic, a federally qualified health center, a local health department, a community mental health center, a behavioral health clinic as defined in 89 Ill. Adm. Code 140.453, an encounter rate clinic, a skilled nursing facility, a substance use treatment program licensed by the Division of Substance Use Prevention and Recovery of the Department of Human Services, a school-based health center as defined in 77 Ill. Adm. Code 641.10, a physician's office, a podiatrist's office, a supportive living program provider, a hospice provider, home health agency, or home nursing agency under the Home Health, Home Services, and Home Nursing Agency Licensing Act, a facility under the ID/DD Community Care Act, community-

integrated living arrangements as defined in the Community-Integrated Living Arrangements Licensure and Certification Act, and a provider who receives reimbursement for a patient's room and board.

"Health care professional" includes but is not limited to, physicians, physician assistants, optometrists, advanced practice registered nurses, clinical psychologists licensed in Illinois, prescribing psychologists licensed in Illinois, dentists, occupational therapists, pharmacists, physical therapists, clinical social workers, speech-language pathologists, audiologists, hearing instrument dispensers, licensed certified substance use disorder treatment providers and clinicians, and mental health professionals and clinicians authorized by Illinois law to provide mental health services, and qualified providers listed under paragraph (8) of subsection © of Section 3 of the Early Intervention Services System Act, dietitian nutritionists licensed in Illinois, and health care professionals associated with a facility.

"Interactive telecommunications system" means an audio and video system, an audio-only telephone system (landline or cellular), or any other telecommunications system permitting 2-way, synchronous interactive communication between a patient at an originating site and a health care professional or facility at a distant site. "Interactive telecommunications system" does not include a facsimile machine, electronic mail messaging, or text messaging.

"Originating site" means the location at which the patient is located at the time telehealth services are provided to the patient via telehealth.

"Remote patient monitoring" means the use of connected digital technologies or mobile medical devices to collect medical and other health data from a patient at one location and electronically transmit that data to a health care professional or facility at a different location for collection and interpretation.

"Telehealth services" means the evaluation, diagnosis, or interpretation of electronically transmitted patient-specific data between a remote location and a licensed health care professional that generates interaction or treatment recommendations. "Telehealth services" includes telemedicine and the delivery of health care services, including mental health treatment and substance use disorder treatment and services to a patient, regardless of patient location, provided by way of an interactive telecommunications system, asynchronous store and forward system, remote patient monitoring technologies, e-visits, or virtual check-ins.

"Virtual check-in" means a brief patient-initiated communication using a technology-based service, excluding facsimile, between an established patient and a health care professional. "Virtual check-in" does not include communications from a related office visit provided within the previous 7 days, nor communications that lead to an office visit or procedure within the next 24 hours or soonest available appointment.

(225 ILCS 150/10)

Sec. 10. Practice authority. A health care professional treating a patient located in this State through telehealth services must be licensed or authorized to practice in Illinois.

(225 ILCS 150/15)

Sec. 15. Use of telehealth services.

(a) A health care professional may engage in the practice of telehealth services in Illinois to the extent of his or her scope of practice as established in his or her respective licensing Act consistent with the standards of care for in-person services. This Act shall not be construed to alter the scope of practice of any health care professional or authorize the delivery of health care services in a setting or in a manner not otherwise authorized by the laws of this State.

(b) Telehealth services provided pursuant to this Section shall be consistent with all federal and State privacy, security, and confidentiality laws, rules, or regulations.

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(225 ILCS 25/18)

Sec. 18. Acts constituting the practice of dental hygiene; limitations.

…

(d) If a patient of record is unable to travel to a dental office because of illness, infirmity, or imprisonment, a dental hygienist may perform, under the general supervision of a dentist, those procedures found in items (i) through (iv) of subsection (a) of this Section, provided the patient is located in a long-term care facility licensed by the State of Illinois, a mental health or developmental disability facility, or a State or federal prison. The dentist shall personally examine and diagnose the patient and determine which services are necessary to be performed, which shall be contained in an order to the hygienist and a notation in the patient's record. Such order must be implemented within 120 days of its issuance, and an updated medical history and observation of oral conditions must be performed by the hygienist immediately prior to beginning the procedures to ensure that the patient's health has not changed in any manner to warrant a reexamination by the dentist.

…

Private Payer Reimbursement

(215 ILCS 5/356z.22) **as amended by HB 3308**

Sec. 356z.22. Coverage for telehealth services.

(a) For purposes of this Section:

"Asynchronous store and forward system" has the meaning given to that term in Section 5 of the Telehealth Act.

"Distant site" has the meaning given to that term in Section 5 of the Telehealth Act.

"E-visits" has the meaning given to that term in Section 5of the Telehealth Act.

"Facility" means any hospital facility licensed under the Hospital Licensing Act or the University of Illinois Hospital Act, a federally qualified health center, a community mental health center, a behavioral health clinic, a substance use disorder treatment program licensed by the Division of Substance Use Prevention and Recovery of the Department of Human Services, or other building, place, or institution that is owned or operated by a person that is licensed or otherwise authorized to deliver health care services.

"Health care professional" has the meaning given to that term in Section 5 of the Telehealth Act.

"Interactive telecommunications system" has the meaning given to that term in Section 5 of the Telehealth Act. As used in this Section, "interactive telecommunications system" does not include virtual check-ins.

"Originating site" has the meaning given to that term in Section 5 of the Telehealth Act.

"Telehealth services" has the meaning given to that term in Section 5 of the Telehealth Act. As used in this Section, "telehealth services" do not include asynchronous store and forward systems, remote patient monitoring technologies, e-visits, or virtual check-ins.

"Virtual check-in" has the meaning given to that term in Section 5 of the Telehealth Act.

(b) An individual or group policy of accident or health insurance that is amended, delivered, issued, or renewed on or after the effective date of this amendatory Act of the 102nd General Assembly shall cover telehealth services, e-visits, and virtual check-ins rendered by a health care professional when clinically appropriate and medically necessary to insureds, enrollees, and members in the same manner as any other benefits covered under the policy. An individual or group policy of accident or health insurance

may provide reimbursement to a facility that serves as the originating site at the time a telehealth service is rendered.

(c) To ensure telehealth service, e-visit, and virtual check-in access is equitable for all patients in receipt of health care services under this Section and health care professionals and facilities are able to deliver medically necessary services that can be appropriately delivered via telehealth within the scope of their licensure or certification, coverage required under this Section shall comply with all of the following:

(1) An individual or group policy of accident or health insurance shall not:

(A) require that in-person contact occur between a health care professional and a patient before the provision of a telehealth service;

(B) require patients health care professionals or facilities to prove or document a hardship or access barrier to an in-person consultation for coverage and reimbursement of telehealth services e-visits, or virtual check-ins;

(C) require the use of telehealth services, e-visits, or virtual check-ins when the health care professional has determined that it is not appropriate; or

(D) require the use of telehealth services when a patient chooses an in-person consultation;

(E) require a health care professional to be physically present in the same room as the patient at the originating site, unless deemed medically necessary by the health care professional providing the telehealth service;

(F) create geographic or facility restrictions or requirements for telehealth services, e-visits, or virtual check-ins;

(G) require health care professionals or facilities to offer or provide telehealth services, e-visits, or virtual check-ins;

(H) require patients to use telehealth services, e-visits, or virtual check-ins, or require patients to use a separate panel of health care professionals or facilities to receive telehealth service, e-visit, or virtual check-in coverage and reimbursement; or

(I) impose upon telehealth services, e-visits, or virtual check-ins utilization review requirements that are unnecessary, duplicative, or unwarranted or impose any treatment limitations, prior authorization, documentation, or recordkeeping requirements that are more stringent than the requirements applicable to the same health care service when rendered in-person, except procedure code modifiers may be required to document telehealth.

(2) Deductibles, copayments, or coinsurance or any other cost-sharing applicable to services provided through telehealth shall not exceed the deductibles, copayments, coinsurance or any other cost-sharing required by the individual or group policy of accident or health insurance for the same services provided through in-person consultation.

(3) An individual or group policy of accident or health insurance shall notify health care professionals and facilities of any instructions necessary to facilitate billing for telehealth services, e-visits, and virtual check-ins.

(d) For purposes of reimbursement, an individual or group policy of accident or health insurance that is amended, delivered, issued, or renewed on or after the effective date of this amendatory Act of the 102nd General Assembly shall reimbu[rs]e an in-network health care professional or facility, including a health care professional or facility in a tiered network, for telehealth services provided through an interactive telecommunications system on the same basis, in the same manner, and at the same reimbursement rate that would apply to the services if the services had been delivered via an in-person encounter by an in-network or tiered network health care professional or facility. This subsection applies only to those services provided by telehealth that may otherwise be billed as an in-person service. This

subsection is inoperative on and after January 1, 2028, except that this subsection is operative after that date with respect to mental health and substance use disorder telehealth services.

(e) The Department and the Department of Public Health shall commission a report to the General Assembly administered by an established medical college in this State wherein supervised clinical training takes place at an affiliated institution that uses telehealth services, subject to appropriation. The report shall study the telehealth coverage and reimbursement policies established in subsections (b) and (d) of this Section, to determine if the policies improve access to care, reduce health disparities, promote health equity, have an impact on utilization and cost-avoidance, including direct or indirect cost savings to the patient, and to provide any recommendations for telehealth access expansion in the future. An individual or group policy of accident or health insurance shall provide data necessary to carry out the requirements of this subsection upon request of the Department. The Department and the Department of Public Health shall submit the report by December 31, 2026. The established medical college may utilize subject matter expertise to complete any necessary actuarial analysis.

(f) Nothing in this Section is intended to limit the ability of an individual or group policy of accident or health insurance and a health care professional or facility to voluntarily negotiate alternate reimbursement rates for telehealth services. Such voluntary negotiations shall take into consideration the ongoing investment necessary to ensure these telehealth platforms may be continuously maintained, seamlessly updated, and integrated with a patient's electronic medical records.

… (h) Any policy, contract, or certificate of health insurance coverage that does not distinguish between in-network and out-of-network health care professionals and facilities shall be subject to this Section as though all health care professionals and facilities were in-network.

(i) Health care professionals and facilities shall determine the appropriateness of specific sites, technology platforms, and technology vendors for a telehealth service, as long as delivered services adhere to all federal and State privacy, security, and confidentiality laws, rules, or regulations, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 and the Mental Health and Developmental Disabilities Confidentiality Act.

(j) Nothing in this Section shall be deemed as precluding a health insurer from providing benefits for other telehealth services, including, but not limited to, services not required for coverage provided through an asynchronous store and forward system, remote patient monitoring services, other monitoring services, or oral communications otherwise covered under the policy.

(k) There shall be no restrictions on originating site requirements for telehealth coverage or reimbursement to the distant site under this Section other than requiring the telehealth services to be medically necessary and clinically appropriate.

(l) The Department may adopt rules, including emergency rules subject to the provisions of Section 5-45 of the Illinois Administrative Procedure Act, to implement the provisions of this Section.

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Indiana

Requirements and Permissible Practices

IC 25-1-9.5Chapter 9.5. Telemedicine Services and Prescriptions

IC 25-1-9.5-1Allows agreements to alternative locations for providing telehealth

Sec. 1. (a) This chapter does not prohibit a provider, prescriber, insurer, practitioner, or patient from agreeing to an alternative location of the patient, provider, practitioner, or prescriber to conduct telehealth.

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

As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.2; P.L.85-2021, SEC.9.

IC 25-1-9.5-2"Distant site"

Sec. 2. As used in this chapter, "distant site" means a site at which a practitioner is located while providing health care services through telehealth.

As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.3; P.L.85-2021, SEC.10.

…

IC 25-1-9.5-2.5"Health care services"

Sec. 2.5. As used in this chapter, "health care services" includes the following:

(a) As used in this chapter, "health care services" includes the following:

(1) The following concerning a patient:

(A) Assessment.

(B) Diagnosis.

(C) Evaluation.

(D) Consultation.

(E) Treatment.

(F) Monitoring of a patient

(2) Transfer of medical data.

(3) Patient health related education.

(4) Health administration.

(b) The term does not include case management services, care management services, service coordination services, or care coordination services:

(1) as defined in IC 12-7-2-25;

(2) provided to individuals under the Indiana Medicaid program or Medicaid waivers; or

(3) provided to individuals under any other programs administered by the office of the secretary of family and social services or the Indiana department of health.

As added by P.L.85-2021, SEC.11.

…

IC 25-1-9.5-3"Originating site"

Sec. 3. As used in this chapter, "originating site" means any site at which a patient is located at the time health care services through telehealth are provided to the individual.
As added by P.L.78-2016, SEC.2. Amended by P.L.85-2021, SEC.12.

IC 25-1-9.5-3.5"Practitioner"

Note: This version of section effective until 4-29-2021. See also following version of this section, effective 4-29-2021.

Sec. 3.5. As used in this chapter, "practitioner" means an individual who holds an unlimited license to practice as any of the following in Indiana:
…
(3) A dental hygienist licensed under IC 25-13.
(4) The following:
(A) A dentist licensed under IC 25-14.
(B) An individual who holds a dental residency permit issued under IC 25-14-1-5.
(C) An individual who holds a dental faculty license under IC 25-14-1-5.5.
…
As added by P.L.85-2021, SEC.13.

IC 25-1-9.5-3.5"Practitioner"

Note: This version of section effective 4-29-2021. See also preceding version of this section, effective until 4-29-2021.

Sec. 3.5. As used in this chapter, "practitioner" means an individual who holds an unlimited license to practice as any of the following in Indiana:
…
(3) A dental hygienist licensed under IC 25-13.
(4) The following:
(A) A dentist licensed under IC 25-14.
(B) An individual who holds a dental residency permit issued under IC 25-14-1-5.
(C) An individual who holds a dental faculty license under IC 25-14-1-5.5.
…
As added by P.L.85-2021, SEC.13. Amended by P.L.207-2021, SEC.25.

IC 25-1-9.5-4"Prescriber"

Sec. 4. As used in this chapter, "prescriber" means any of the following:
…
(6) A dentist licensed under IC 25-14.
…
As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.4; P.L.129-2018, SEC.25; P.L.247-2019, SEC.2; P.L.85-2021, SEC.14.

…

IC 25-1-9.5-5"Store and forward"

Sec. 5. As used in this chapter, "store and forward" means the transmission of a patient's medical information from an originating site to the practitioner at a distant site without the patient being present.
As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.5; P.L.85-2021, SEC.15.

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IC 25-1-9.5-6"Telehealth"

Note: This version of section effective 4-29-2021. See also preceding version of this section, effective until 4-29-2021.

Sec. 6. (a) As used in this chapter, "telehealth" means the delivery of health care services using interactive electronic communications and information technology, in compliance with the federal Health Insurance Portability and Accountability Act (HIPAA), including:

(1) secure videoconferencing;

(2) store and forward technology; or

(3) remote patient monitoring technology;

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

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

(1) Electronic mail.

(2) An instant messaging conversation.

(3) Facsimile.

(4) Internet questionnaire.

(5) Internet consultation.

(c) The term does not include a health care service provided by:

(1) an employee of a practitioner; or

(2) an individual who is employed by the same entity that employs the practitioner; who is performing a health care service listed in section 2.5(2), 2.5(3), or 2.5(4) of this chapter under the direction and that is customarily within the specific area of practice of the practitioner.

As added by P.L.78-2016, SEC.2. Amended by P.L.85-2021, SEC.16; P.L.207-2021, SEC.26.

IC 25-1-9.5-7Standards for providing telehealth; maintenance of medical records; waiver of confidentiality; prohibition on requiring employee to use of telehealth

Sec. 7. (a) A practitioner who:

(1) provides health care services through telehealth; or

(2) directs an employee of the practitioner to perform a health care service listed in section 2.5(2), 2.5(3), or 2.5(4) of this chapter;

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

(b) A practitioner who uses telehealth shall, if such action would otherwise be required in the provision of the same health care services in a manner other than telehealth, ensure that a proper provider-patient relationship is established. The provider-patient relationship by a practitioner who uses telehealth must at a minimum include the following:

(1) Obtain the patient's name and contact information and:

(A) a verbal statement or other data from the patient identifying the patient's location; and

(B) to the extent reasonably possible, the identity of the requesting patient.

(2) Disclose the practitioner's name and disclose the practitioner's licensure, certification, or registration.

(3) Obtain informed consent from the patient.

(4) Obtain the patient's medical history and other information necessary to establish a diagnosis.

(5) Discuss with the patient the:

(A) diagnosis;

(B) evidence for the diagnosis; and

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(C) risks and benefits of various treatment options, including when it is advisable to seek in-person care.

(6) Create and maintain a medical record for the patient. If a prescription is issued for the patient, and subject to the consent of the patient, the prescriber shall notify the patient's primary care provider of any prescriptions the prescriber has issued for the patient if the primary care provider's contact information is provided by the patient. The requirements in this subdivision do not apply when any of the following are met:

(A) The practitioner is using an electronic health record system that the patient's primary care provider is authorized to access.

(B) The practitioner has established an ongoing provider-patient relationship with the patient by providing care to the patient at least two (2) consecutive times through the use of telehealth services. If the conditions of this clause are met, the practitioner shall maintain a medical record for the patient and shall notify the patient's primary care provider of any issued prescriptions.

(7) Issue proper instructions for appropriate follow-up care.

(8) Provide a telehealth visit summary to the patient, including information that indicates any prescription that is being prescribed.

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

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

(1) provided during a telehealth visit; and

(2) heard by another individual in the vicinity of the patient during a health care service or consultation.

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

(1) negatively impact the patient's health; or

(2) result in a lower standard of care than if the health care service was provided in an in-person setting.

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

(1) that health quality may be negatively impacted; or

(2) the practitioner would be unable to provide the same standards of appropriate practice as those provided in an in-person setting.

As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.6; P.L.129-2018, SEC.26; P.L.85-2021, SEC.17.

IC 25-1-9.5-8Issuance of prescription; controlled substance conditions

Sec. 8. (a) A prescriber may issue a prescription to a patient who is receiving services through the use of telehealth if the patient has not been examined previously by the prescriber in person if the following conditions are met:

(1) The prescriber has satisfied the applicable standard of care in the treatment of the patient.

(2) The issuance of the prescription by the prescriber is within the prescriber's scope of practice and certification.

(3) The prescription:

(A) meets the requirements of subsection (b); and

(B) is not for an opioid. However, an opioid may be prescribed if the opioid is a partial agonist that is used to treat or manage opioid dependence.

(4) The prescription is not for an abortion inducing drug (as defined in IC 16-18-2-1.6).

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

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

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

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

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

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

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

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

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

As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.7; P.L.51-2019, SEC.3; P.L.28-2019, SEC.10; P.L.211-2019, SEC.34; P.L.52-2020, SEC.4; P.L.85-2021, SEC.18.

IC 25-1-9.5-9Physically located outside Indiana and providing health care; certification; renewal

Sec. 9. (a) A practitioner who is physically located outside Indiana is engaged in the provision of health care services in Indiana when the practitioner:

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

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

an individual who is located in Indiana.

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

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

(2) Indiana substantive and procedural laws;

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

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

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(d) A practitioner's employer or a practitioner's contractor is required to file the certification required by this section only at the time of initial certification.
As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.8; P.L.85-2021, SEC.19.

IC 25-1-9.5-10Discipline; penalties

Sec. 10. (a) A practitioner who violates this chapter is subject to disciplinary action under IC 25-1-9.

(b) A practitioner's employer or a practitioner's contractor that violates this section commits a Class B infraction for each act in which a certification is not filed as required by section 9 of this chapter.
As added by P.L.78-2016, SEC.2. Amended by P.L.150-2017, SEC.9; P.L.85-2021, SEC.20.

…

IC 25-1-9.5-12Adoption of policies or rules

Sec. 12. The Indiana professional licensing agency may adopt policies or rules under IC 4-22-2 necessary to implement this chapter. Adoption of policies or rules under this section may not delay the implementation and provision of telehealth services under this chapter.
As added by P.L.78-2016, SEC.2. Amended by P.L.85-2021, SEC.22.

…

IC 25-1-9.5-14No requirement to provide or use telehealth

Sec. 14. Nothing in this chapter requires an individual to provide or use telehealth.
As added by P.L.85-2021, SEC.24.

Private Payer Reimbursement

IC 27-8-11-1Definitions

Sec. 1. (a) The definitions in this section apply throughout this chapter.

…

(c) "Health care services":
(1) means health care related services or products rendered or sold by a provider within the scope of the provider's license or legal authorization; and
(2) includes hospital, medical, surgical, dental, vision, and pharmaceutical services or products.

…

(h) "Provider" means an individual or entity duly licensed or legally authorized to provide health care services.

IC 27-8-34Chapter 34. Coverage for Telemedicine Services

IC 27-8-34-1"Covered individual"

Sec. 1. As used in this chapter, "covered individual" means an individual who is entitled to coverage under a policy of accident and sickness insurance.
As added by P.L.185-2015, SEC.25.

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IC 27-8-34-2"Health care services"

Sec. 2. As used in this chapter, "health care services" has the meaning set forth in IC 27-8-11-1.

As added by P.L.185-2015, SEC.25.

IC 27-8-34-3"Policy"

Sec. 3. As used in this chapter, "policy" means a policy of accident and sickness insurance (as defined in IC 27-8-5-1). The term does not include dental insurance or vision insurance.

As added by P.L.185-2015, SEC.25.

IC 27-8-34-4"Provider"

Sec. 4. As used in this chapter, "provider" has the meaning set forth in IC 27-8-11-1.

As added by P.L.185-2015, SEC.25.

IC 27-8-34-5"Telemedicine services"

Sec. 5. (a) As used in this chapter, "telemedicine services" means health care services delivered by use of interactive audio, video, or other electronic media, including the following:

(1) Medical exams and consultations.

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

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

(1) A telephone transmitter for transtelephonic monitoring.

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

As added by P.L.185-2015, SEC.25.

IC 27-8-34-6Coverage of telemedicine services; limits; separate consent prohibited

Sec. 6. (a) A policy must provide coverage for telemedicine services in accordance with the same clinical criteria as the policy provides coverage for the same health care services delivered in person.

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

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

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

As added by P.L.185-2015, SEC.25.

IC 27-8-34-7Application limitations

Sec. 7. This chapter does not do any of the following:

(1) Require a policy to provide coverage for a telemedicine service that is not a covered health care service under the policy.

(2) Require the use of telemedicine services when the treating provider has determined that telemedicine services are inappropriate.

(3) Prevent the use of utilization review concerning coverage for telemedicine services in the same manner as utilization review is used concerning coverage for the same health care services delivered to a covered individual in person.

As added by P.L.185-2015, SEC.25.

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Iowa

Requirements and Permissible Practices

153.24. Orthodontia-related services as added by H.F. 685

1. A licensee under the purview of the board who provides treatment for the correction of malpositions of human teeth or the initial use of orthodontic appliances shall not begin orthodontic treatment on a new patient unless one of the following conditions is met:
   a. The licensee performs an initial in-person or teledentistry examination of the teeth and supporting structures of the new patient prior to beginning orthodontic treatment.
   b. The new patient provides the licensee with the portion of the dental record taken within the prior six months of an in-person or teledentistry examination of the teeth and supporting structures of the new patient prior to the licensee beginning orthodontic treatment.
2. The examination required pursuant to subsection 1 shall include any appropriate conventional or digital radiographs or digital imaging that are necessary to develop a suitable orthodontic diagnosis and treatment plan.
3. For the purposes of this section, "new patient" means a person whom a licensee has not examined, for whom a licensee has not provided care, or for whom a licensee has not otherwise provided consultation during the two-year period immediately prior to the patient's most recent appointment.

Dental Board [650] |
Chapter 27 STANDARDS OF PRACTICE AND PRINCIPLES OF PROFESSIONAL ETHICS

650—27.12(153) Teledentistry.

This rule establishes the standards of practice for teledentistry.

27.12(1) *Definition.*
"Teledentistry" means a dentist is providing or supervising dental services using technology when the patient is in another location.

27.12(2) *Teledentistry authorized.* A dentist may utilize teledentistry to provide dental care to patients located in Iowa. A dentist shall not provide dental care to a patient located in Iowa based solely on an Internet questionnaire consisting of a static set of questions that have been answered by the patient.

27.12(3) *License or registration required.* A dentist, dental hygienist, or dental assistant who uses teledentistry for a patient located in Iowa shall hold an active Iowa license or registration issued by the board.

27.12(4) *General requirements.* The standard of dental care is the same whether a patient is seen in person or through a teledentistry encounter. The use of teledentistry is not an expansion of the scope of practice for dental hygienists or dental assistants. A dentist who uses teledentistry shall utilize evidence-based standards of practice and practice guidelines to ensure patient safety, quality of care, and positive outcomes.

27.12(5) *Informed consent.* When teledentistry will be utilized, a dentist shall ensure informed consent covers the following additional information:

a. A description of the types of dental care services provided via teledentistry, including limitations on services;

b. The identity, contact information, practice location, licensure, credentials, and qualifications of all dentists, dental hygienists, and dental assistants involved in the patient's dental care, which must be publicly displayed on a website or provided in writing to the patient; and

c. Precautions for technological failures or emergency situations.

27.12(6) *Examination.* A dentist may use teledentistry to conduct an examination for a new patient or for a new diagnosis if the examination is conducted in accordance with evidence-based standards of practice to sufficiently establish an informed diagnosis. A dentist shall not conduct a dental examination using teledentistry if the standard of care necessitates an in-person dental examination. Once an examination has been conducted, a dentist may delegate the services to be provided.

27.12(7) *Follow-up and emergency care.* A dentist who uses teledentistry shall have adequate knowledge of the nature and availability of local dental resources to provide appropriate follow-up care to a patient following a teledentistry encounter. A dentist shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of emergency.

27.12(8) *Supervision.* With the exception of administering local anesthesia or nitrous oxide inhalation analgesia, or performing expanded functions, a dentist may delegate to and supervise services to be performed by a dental hygienist or dental assistant.

a. When direct supervision of a dental hygienist or dental assistant is required, a dentist may provide direct supervision using live video. A dentist is not required to directly supervise the entire delivery of dental care but must appear upon request using live video with a response time similar to what would be expected if the dentist were present in the treatment facility.

b. When general supervision of a dental hygienist or dental assistant is required, a dentist may utilize teledentistry.

c. When public health supervision is utilized, a supervising dentist may authorize use of teledentistry.

27.12(9) *Patient records.* A teledentistry encounter shall be clearly characterized as such in a patient record.

27.12(10) *Privacy and security.* All dentists, dental hygienists, and dental assistants shall ensure that the use of teledentistry complies with the privacy and security requirements of the Health Insurance Portability and Accountability Act.

Iowa Administrative Code - 05/05/2021
Telecommunications and Technology Commission, Iowa [751]
Chapter 7 AUTHORIZED USE AND USERS

751—7.1(8D) Definitions.

…

751—7.11 (8D) Use or access to telemedicine users.

The following persons and entities may use or access the network for data and video services including access to the Internet if the use is for telemedicine or educational purposes:

1. Licensed health care professionals or licensed health care professionals who function under the direction of or in collaboration with a physician or a hospital, or both, for example, other doctors, students, nurses, physician's assistants, therapists, clinical social workers, psychologists;
2. Hospital or physician clinic staff members;

3. Professional boards on which health professionals serve, for example, a nurse serving on the board of the American Cancer Society;
4. Patients acting under the direction of a licensed health care professional;
5. Health care employees of facilities that have a contractual agreement with the hospital or physician;
6. Health care employees of facilities that do not have a contractual agreement with the hospital or physician clinic;
7. Employees of health care associations for various health care employees, for example, Association of Iowa Hospitals and Health Systems, Iowa Medical Society, Iowa Osteopathic Medical Association, Iowa Chiropractic Society, Iowa Nurses Association;
8. Professional board members where a health care professional serves as a member of a board, for example, a physician serving on the board of the American Cancer Society.

Medicaid Reimbursement

Iowa Administrative Code 441—78.55(249A) Services rendered via telehealth.

An in-person contact between a health care professional and a patient is not required as a prerequisite for payment for otherwise-covered services appropriately provided through telehealth in accordance with generally accepted health care practices and standards prevailing in the applicable professional community at the time the services are provided, as well as being in accordance with provisions under rule 653—13.11(147,148,272C). Health care services provided through in-person consultations or through telehealth shall be treated as equivalent services for the purposes of reimbursement.

Private Payer Reimbursement