



Reprinted
February 2, 2021

SENATE BILL No. 3

DIGEST OF SB 3 (Updated February 1, 2021 1:58 pm - DI 104)

Citations Affected: IC 12-7; IC 12-15; IC 16-18; IC 16-36; IC 25-1; IC 25-22.5; IC 27-8; IC 27-13.

Synopsis: Telehealth matters. Prohibits the Medicaid program from specifying originating sites and distant sites for purposes of Medicaid reimbursement. Changes the use of the term "telemedicine" to "telehealth". Specifies certain activities that are considered to be health care services for purposes of the telehealth laws. Expands the application of the telehealth statute to additional licensed practitioners instead of applying only to prescribers. Amends the definition of "telehealth". Requires that the telehealth medical records be created and maintained under the same standards of appropriate practice for medical records for patients in an in-person setting. Specifies that a patient waives confidentiality of medical information concerning individuals in the vicinity when the patient is using telehealth. Prohibits certain insurance policies and individual and group contracts from mandating the use of certain technology applications in the provision of telehealth services.

Effective: Upon passage.

**Charbonneau, Doriot, Crider,
Yoder, Bassler, Ford Jon, Zay**

January 7, 2021, read first time and referred to Committee on Health and Provider Services.

January 28, 2021, amended, reported favorably — Do Pass.

February 1, 2021, read second time, amended, ordered engrossed.

SB 3—LS 6855/DI 104



Reprinted
February 2, 2021

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

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

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

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

SENATE BILL No. 3

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

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

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

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

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

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

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

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

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

8 (1) A federally qualified health center (as defined in 42 U.S.C.
 9 1396d(l)(2)(B)).

10 (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

11 (3) A community mental health center certified under
 12 IC 12-21-2-3(5)(C).

13 (4) A critical access hospital that meets the criteria under 42 CFR
 14 485.601 et seq.

15 (5) A provider, as determined by the office to be eligible,
 16 providing a covered ~~telemedicine service~~: **telehealth activity**.

17 (e) The office may not impose any distance restrictions on providers
 18 of telehealth ~~services~~ **activities** or ~~telemedicine~~ **telehealth** services.
 19 Before December 31, 2017, the office shall do the following:

20 (1) Submit a Medicaid state plan amendment with the United
 21 States Department of Health and Human Services that eliminates
 22 distance restrictions for telehealth ~~services~~ **activities** or
 23 ~~telemedicine~~ **telehealth** services in the state Medicaid plan.

24 (2) Issue a notice of intent to adopt a rule to amend any
 25 administrative rules that include distance restrictions for the
 26 provision of telehealth ~~services~~ **activities** or ~~telemedicine~~
 27 **telehealth** services.

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

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

33 **(1) provided during a telehealth visit; and**

34 **(2) heard by another individual in the vicinity of the Medicaid**
 35 **recipient during a health care service or consultation.**

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

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

41 SECTION 4, IC 16-18-2-348.5, AS ADDED BY P.L.185-2015,
 42 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 UPON PASSAGE]: Sec. 348.5. "~~Telemedicine~~", "**Telehealth**", for
 2 purposes of IC 16-36-1, means a specific method of delivery of
 3 services, including medical exams and consultations and behavioral
 4 health evaluations and treatment, including those for substance abuse,
 5 using ~~videoconferencing equipment technology allowed under~~
 6 **IC 25-1-9.5-6** to allow a provider to render an examination or other
 7 service to a patient at a distant location. ~~The term does not include the~~
 8 ~~use of the following:~~

9 ~~(1) A telephone transmitter for transtelephonic monitoring.~~

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

12 SECTION 5. IC 16-36-1-15, AS ADDED BY P.L.185-2015,
 13 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 15. A health care provider (as defined in
 15 IC 16-18-2-163(a)) may not be required to obtain a separate additional
 16 written health care consent for the provision of ~~telemedicine~~ **telehealth**
 17 services.

18 SECTION 6. IC 25-1-2-10, AS ADDED BY P.L.121-2018,
 19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: Sec. 10. (a) As used in this section, "board" means
 21 any of the following boards:

22 (1) The medical licensing board of Indiana.

23 (2) The Indiana state board of nursing.

24 (3) The state board of dentistry.

25 (4) The behavioral health and human services licensing board.

26 (5) The state psychology board.

27 (6) The Indiana board of pharmacy.

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

29 (1) an unlimited license, certificate, or registration;

30 (2) a limited or probationary license, certificate, or registration;

31 (3) a temporary license, certificate, registration, or permit;

32 (4) an intern permit; or

33 (5) a provisional license;

34 issued by the board regulating the profession in question.

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

37 (1) IC 25-14-1.

38 (2) IC 25-22.5-5.

39 (3) IC 25-23.

40 (4) IC 25-23.6.

41 (5) IC 25-26.

42 (6) IC 25-27.5.



1 (7) IC 25-33.

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

9 (1) The practitioner's specialty or field of practice.

10 (2) The following concerning the practitioner's current practice:

11 (A) The location or address.

12 (B) The setting type.

13 (C) The average hours worked weekly.

14 (D) The health care services provided.

15 (3) The practitioner's education background and training.

16 (4) For a practitioner ~~that is a prescriber~~ (as defined in
 17 ~~IC 25-1-9.5-4~~; **IC 25-1-9.5-3.5**), whether the practitioner delivers
 18 health care services through ~~telemedicine~~ **telehealth** (as defined
 19 in IC 25-1-9.5-6).

20 (e) The Indiana professional licensing agency shall do the following:

21 (1) Include notification with a practitioner's license renewal notice
 22 that the practitioner must submit the information required under
 23 subsection (d) if the practitioner renews the license online.

24 (2) Compile the information collected under this section into an
 25 annual report. The report may not contain any personal
 26 identifying information and the report must be compliant with the
 27 federal Health Insurance Portability and Accountability Act
 28 (HIPAA).

29 (3) Post the annual report compiled under this subsection on the
 30 agency's Internet web site.

31 (4) Submit the annual report compiled under this subsection to the
 32 following:

33 (A) The office of Medicaid policy and planning.

34 (B) The department of workforce development.

35 (C) The commission on improving the status of children in
 36 Indiana (IC 2-5-36).

37 (D) The legislative council in an electronic format under
 38 IC 5-14-6.

39 (E) The office of the attorney general.

40 SECTION 7. IC 25-1-9.5-1, AS AMENDED BY P.L.150-2017,
 41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 UPON PASSAGE]: Sec. 1. (a) This chapter does not prohibit a



1 provider, prescriber, insurer, or patient from agreeing to an alternative
 2 location of the patient, provider, or prescriber to conduct ~~telemedicine.~~
 3 **telehealth.**

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

6 SECTION 8. IC 25-1-9.5-2, AS AMENDED BY P.L.150-2017,
 7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 2. As used in this chapter, "distant site" means
 9 a site at which a ~~prescriber practitioner~~ is located while providing
 10 health care services through ~~telemedicine.~~ **telehealth.**

11 SECTION 9. IC 25-1-9.5-2.5 IS ADDED TO THE INDIANA
 12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. As used in this chapter,**
 14 **"health care services" includes the following:**

- 15 (1) **Assessment, diagnosis, evaluation, consultation, treatment,**
- 16 **and monitoring of a patient.**
- 17 (2) **Transfer of medical data.**
- 18 (3) **Patient health related education.**
- 19 (4) **Public health services and health administration.**

20 SECTION 10. IC 25-1-9.5-3, AS ADDED BY P.L.78-2016,
 21 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 UPON PASSAGE]: Sec. 3. As used in this chapter, "originating site"
 23 means any site at which a patient is located at the time health care
 24 services through ~~telemedicine~~ **telehealth** are provided to the individual.

25 SECTION 11. IC 25-1-9.5-3.5 IS ADDED TO THE INDIANA
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 27 [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter,**
 28 **"practitioner" means an individual who holds an unlimited license**
 29 **to practice as any of the following in Indiana:**

- 30 (1) **An athletic trainer licensed under IC 25-5.1.**
- 31 (2) **A chiropractor licensed under IC 25-10.**
- 32 (3) **A dental hygienist licensed under IC 25-13.**
- 33 (4) **The following:**
 - 34 (A) **A dentist licensed under IC 25-14.**
 - 35 (B) **An individual who holds a dental residency permit**
 - 36 **issued under IC 25-14-1-5.**
 - 37 (C) **An individual who holds a dental faculty license under**
 - 38 **IC 25-14-1-5.5.**
- 39 (5) **A diabetes educator licensed under IC 25-14.3.**
- 40 (6) **A dietitian licensed under IC 25-14.5.**
- 41 (7) **A genetic counselor licensed under IC 25-17.3.**
- 42 (8) **The following:**



- 1 (A) A physician licensed under IC 25-22.5.
 2 (B) An individual who holds a temporary permit under
 3 IC 25-22.5-5-4.
 4 (9) A nurse licensed under IC 25-23.
 5 (10) An occupational therapist licensed under IC 25-23.5.
 6 (11) Any behavioral health and human services professional
 7 licensed under IC 25-23.6.
 8 (12) An optometrist licensed under IC 25-24.
 9 (13) A pharmacist licensed under IC 25-26.
 10 (14) A physical therapist licensed under IC 25-27.
 11 (15) A physician assistant licensed under IC 25-27.5.
 12 (16) A podiatrist licensed under IC 25-29.
 13 (17) A psychologist licensed under IC 25-33.
 14 (18) A respiratory care practitioner licensed under IC 25-34.5.
 15 (19) A speech-language pathologist or audiologist licensed
 16 under IC 25-35.6.
 17 (20) A veterinarian licensed under IC 25-38.1.

18 SECTION 12. IC 25-1-9.5-5, AS AMENDED BY P.L.150-2017,
 19 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: Sec. 5. As used in this chapter, "store and forward"
 21 means the transmission of a patient's medical information from an
 22 originating site to the ~~prescriber~~ **practitioner** at a distant site without
 23 the patient being present.

24 SECTION 13. IC 25-1-9.5-6, AS ADDED BY P.L.78-2016,
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]: Sec. 6. (a) As used in this chapter, "~~telemedicine~~"
 27 "**telehealth**" means the delivery of health care services using
 28 **interactive** electronic communications and information technology,
 29 including:

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

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

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

- 36 ~~(1) Audio-only communication.~~
 37 ~~(2) A telephone call.~~
 38 ~~(3) (1) Electronic mail.~~
 39 ~~(4) (2) An instant messaging conversation.~~
 40 ~~(5) (3) Facsimile.~~
 41 ~~(6) (4) Internet questionnaire.~~
 42 ~~(7) Telephone consultation.~~



1 ~~(8)~~ **(5)** Internet consultation.

2 SECTION 14. IC 25-1-9.5-7, AS AMENDED BY P.L.129-2018,
3 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 UPON PASSAGE]: Sec. 7. (a) A **prescriber practitioner** who provides
5 health care services through **telemedicine telehealth** shall be held to
6 the same standards of appropriate practice as those standards for health
7 care services provided at an in-person setting.

8 (b) ~~A prescriber may not use telemedicine, including issuing a~~
9 ~~prescription, for an individual who is located in Indiana unless a~~
10 ~~provider-patient relationship between the prescriber and the individual~~
11 ~~has been established. A prescriber practitioner who uses telemedicine~~
12 **telehealth** shall, if such action would otherwise be required in the
13 provision of the same health care services in a manner other than
14 ~~telemedicine, telehealth~~, ensure that a proper provider-patient
15 relationship is established. The provider-patient relationship by a
16 **prescriber practitioner** who uses **telemedicine telehealth** must at a
17 minimum include the following:

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

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

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

23 (2) Disclose the ~~prescriber's practitioner's~~ name and disclose
24 ~~whether the prescriber is a physician, physician assistant,~~
25 ~~advanced practice registered nurse, optometrist, or podiatrist. the~~
26 **practitioner's licensure, certification, or registration.**

27 (3) Obtain informed consent from the patient.

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

30 (5) Discuss with the patient the:

31 (A) diagnosis;

32 (B) evidence for the diagnosis; and

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

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

42 (A) The **prescriber practitioner** is using an electronic health



1 record system that the patient's primary care provider is
 2 authorized to access.

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

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

11 (8) Provide a ~~telemedicine~~ **telehealth** visit summary to the
 12 patient, including information that indicates any prescription that
 13 is being prescribed.

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

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

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

23 SECTION 15. IC 25-1-9.5-8, AS AMENDED BY P.L.52-2020,
 24 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 8. (a) A prescriber may issue a prescription to
 26 a patient who is receiving services through the use of ~~telemedicine~~
 27 **telehealth** if the patient has not been examined previously by the
 28 prescriber in person if the following conditions are met:

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

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

33 (3) The prescription:
 34 (A) meets the requirements of subsection (b); and
 35 (B) is not for an opioid. However, an opioid may be prescribed
 36 if the opioid is a partial agonist that is used to treat or manage
 37 opioid dependence.

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

40 (5) If the prescription is for a medical device, including an
 41 ophthalmic device, the prescriber must use ~~telemedicine~~
 42 **telehealth** technology that is sufficient to allow the provider to



1 make an informed diagnosis and treatment plan that includes the
 2 medical device being prescribed. However, a prescription for an
 3 ophthalmic device is also subject to the conditions in section 13
 4 of this chapter.

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

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

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

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

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

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

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

26 SECTION 16. IC 25-1-9.5-9, AS AMENDED BY P.L.150-2017,
 27 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]: Sec. 9. (a) A **prescriber practitioner** who is
 29 physically located outside Indiana is engaged in the provision of health
 30 care services in Indiana when the ~~prescriber:~~ **practitioner:**

31 (1) establishes a provider-patient relationship under this chapter
 32 with; or

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

35 an individual who is located in Indiana.

36 (b) A **prescriber practitioner** described in subsection (a) may not
 37 establish a provider-patient relationship under this chapter with or issue
 38 a prescription under this chapter for an individual who is located in
 39 Indiana unless the **prescriber practitioner** and the ~~prescriber's~~
 40 **practitioner's** employer or the ~~prescriber's practitioner's~~
 41 **practitioner's** contractor, for purposes of providing health care services under this chapter, have
 42 certified in writing to the Indiana professional licensing agency, in a



1 manner specified by the Indiana professional licensing agency, that the
 2 ~~prescriber practitioner~~ and the ~~prescriber's practitioner's~~ employer
 3 or ~~prescriber's practitioner's~~ contractor agree to be subject to:

- 4 (1) the jurisdiction of the courts of law of Indiana; and
 5 (2) Indiana substantive and procedural laws;

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

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

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

24 SECTION 17. IC 25-1-9.5-10, AS AMENDED BY P.L.150-2017,
 25 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]: Sec. 10. (a) A ~~prescriber practitioner~~ who violates
 27 this chapter is subject to disciplinary action under IC 25-1-9.

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

32 SECTION 18. IC 25-1-9.5-11, AS AMENDED BY P.L.28-2019,
 33 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]: Sec. 11. A pharmacy does not violate this chapter
 35 if the pharmacy fills a prescription for an opioid and the pharmacy is
 36 unaware that the prescription was written or electronically transmitted
 37 by a prescriber providing ~~telemedicine telehealth~~ services under this
 38 chapter.

39 SECTION 19. IC 25-1-9.5-12, AS ADDED BY P.L.78-2016,
 40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 12. The Indiana professional licensing agency
 42 may adopt policies or rules under IC 4-22-2 necessary to implement



1 this chapter. Adoption of policies or rules under this section may not
 2 delay the implementation and provision of ~~telemedicine~~ **telehealth**
 3 services under this chapter.

4 SECTION 20. IC 25-1-9.5-13, AS ADDED BY P.L.52-2020,
 5 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: Sec. 13. (a) As used in this section, "HIPAA"
 7 refers to the federal Health Insurance Portability and Accountability
 8 Act.

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

11 (1) If the prescription is for contact lenses or eyeglasses, the
 12 patient must be at least eighteen (18) years of age but not more
 13 than fifty-five (55) years of age.

14 (2) The patient must have completed a medical eye history that
 15 includes information concerning the following:

16 (A) Chronic health conditions.

17 (B) Current medications.

18 (C) Eye discomfort.

19 (D) Blurry vision.

20 (E) Any prior ocular medical procedures.

21 (3) The patient must have had a prior prescription from a
 22 qualified eye care professional that included a comprehensive in
 23 person exam that occurred within two (2) years before the initial
 24 use of ~~telemedicine~~ **telehealth** for a refraction under subdivision
 25 (5)(A).

26 (4) If the patient desires a contact lens prescription, at the
 27 discretion of the eye care professional, that patient must have had
 28 a prior contact lens fitting or evaluation by a qualified eye care
 29 professional that occurred within two (2) years before the initial
 30 use of ~~telemedicine~~ **telehealth** for a refraction under subdivision
 31 (5)(A).

32 (5) The patient:

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

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

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



- 1 (7) The prescriber must ensure that the transfer of all information,
- 2 including the vision test and prescription, comply with HIPAA
- 3 requirements.
- 4 (8) The prescriber must use technology to allow the patient to
- 5 have continuing twenty-four (24) hour a day online access to the
- 6 patient's prescription as soon as the prescription is signed by the
- 7 prescriber.
- 8 SECTION 21. IC 25-1-9.5-14 IS ADDED TO THE INDIANA
- 9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 10 [EFFECTIVE UPON PASSAGE]: **Sec. 14. Nothing in this chapter**
- 11 **requires an individual to provide or use telehealth.**
- 12 SECTION 22. IC 25-22.5-2-7, AS AMENDED BY P.L.249-2019,
- 13 SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 14 UPON PASSAGE]: Sec. 7. (a) The board shall do the following:
- 15 (1) Adopt rules and forms necessary to implement this article that
- 16 concern, but are not limited to, the following areas:
- 17 (A) Qualification by education, residence, citizenship,
- 18 training, and character for admission to an examination for
- 19 licensure or by endorsement for licensure.
- 20 (B) The examination for licensure.
- 21 (C) The license or permit.
- 22 (D) Fees for examination, permit, licensure, and registration.
- 23 (E) Reinstatement of licenses and permits.
- 24 (F) Payment of costs in disciplinary proceedings conducted by
- 25 the board.
- 26 (2) Administer oaths in matters relating to the discharge of the
- 27 board's official duties.
- 28 (3) Enforce this article and assign to the personnel of the agency
- 29 duties as may be necessary in the discharge of the board's duty.
- 30 (4) Maintain, through the agency, full and complete records of all
- 31 applicants for licensure or permit and of all licenses and permits
- 32 issued.
- 33 (5) Make available, upon request, the complete schedule of
- 34 minimum requirements for licensure or permit.
- 35 (6) Issue, at the board's discretion, a temporary permit to an
- 36 applicant for the interim from the date of application until the
- 37 next regular meeting of the board.
- 38 (7) Issue an unlimited license, a limited license, or a temporary
- 39 medical permit, depending upon the qualifications of the
- 40 applicant, to any applicant who successfully fulfills all of the
- 41 requirements of this article.
- 42 (8) Adopt rules establishing standards for the competent practice



- 1 of medicine, osteopathic medicine, or any other form of practice
 2 regulated by a limited license or permit issued under this article.
 3 (9) Adopt rules regarding the appropriate prescribing of Schedule
 4 III or Schedule IV controlled substances for the purpose of weight
 5 reduction or to control obesity.
 6 (10) Adopt rules establishing standards for office based
 7 procedures that require moderate sedation, deep sedation, or
 8 general anesthesia.
 9 (11) Adopt rules or protocol establishing the following:
 10 (A) An education program to be used to educate women with
 11 high breast density.
 12 (B) Standards for providing an annual screening or diagnostic
 13 test for a woman who is at least forty (40) years of age and
 14 who has been determined to have high breast density.
 15 As used in this subdivision, "high breast density" means a
 16 condition in which there is a greater amount of breast and
 17 connective tissue in comparison to fat in the breast.
 18 (12) Adopt rules establishing standards and protocols for the
 19 prescribing of controlled substances.
 20 (13) Adopt rules as set forth in IC 25-23.4 concerning the
 21 certification of certified direct entry midwives.
 22 (14) In consultation with the state department of health and the
 23 office of the secretary of family and social services, adopt rules
 24 under IC 4-22-2 or protocols concerning the following for
 25 providers that are providing office based opioid treatment:
 26 (A) Requirements of a treatment agreement (as described in
 27 IC 12-23-20-2) concerning the proper referral and treatment of
 28 mental health and substance use.
 29 (B) Parameters around the frequency and types of visits
 30 required for the periodic scheduled visits required by
 31 IC 12-23-20-2.
 32 (C) Conditions on when the following should be ordered or
 33 performed:
 34 (i) A urine toxicology screening.
 35 (ii) HIV, hepatitis B, and hepatitis C testing.
 36 (D) Required documentation in a patient's medical record
 37 when buprenorphine is prescribed over a specified dosage.
 38 (15) Adopt rules as set forth in IC 25-14.5 concerning the
 39 certification of certified dietitians.
 40 (b) The board may adopt rules that establish:
 41 (1) certification requirements for child death pathologists;
 42 (2) an annual training program for child death pathologists under



1 IC 16-35-7-3(b)(2); and
 2 (3) a process to certify a qualified child death pathologist.
 3 (c) The board may adopt rules under IC 4-22-2 establishing
 4 guidelines for the practice of ~~telemedicine~~ **telehealth** in Indiana.
 5 Adoption of rules under this subsection may not delay the
 6 implementation and provision of ~~telemedicine~~ **telehealth** services by
 7 a provider under IC 25-1-9.5.
 8 SECTION 23. IC 27-8-34-5, AS ADDED BY P.L.185-2015,
 9 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 UPON PASSAGE]: Sec. 5. ~~(a)~~ As used in this chapter, "~~telemedicine~~
 11 **telehealth** services" means health care services delivered by use of
 12 ~~interactive audio, video, or other electronic media, technology allowed~~
 13 **under IC 25-1-9.5-6**, including the following:
 14 (1) Medical exams and consultations.
 15 (2) Behavioral health, including substance abuse evaluations and
 16 treatment.
 17 ~~(b) The term does not include the delivery of health care services by~~
 18 ~~use of the following:-~~
 19 ~~(1) A telephone transmitter for transtelephonic monitoring-~~
 20 ~~(2) A telephone or any other means of communication for the~~
 21 ~~consultation from one (1) provider to another provider.~~
 22 SECTION 24. IC 27-8-34-6, AS ADDED BY P.L.185-2015,
 23 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 UPON PASSAGE]: Sec. 6. (a) A policy must provide coverage for
 25 ~~telemedicine~~ **telehealth** services in accordance with the same clinical
 26 criteria as the policy provides coverage for the same health care
 27 services delivered in person.
 28 (b) Coverage for ~~telemedicine~~ **telehealth** services required by
 29 subsection (a) may not be subject to a dollar limit, deductible, or
 30 coinsurance requirement that is less favorable to a covered individual
 31 than the dollar limit, deductible, or coinsurance requirement that
 32 applies to the same health care services delivered to a covered
 33 individual in person.
 34 (c) Any annual or lifetime dollar limit that applies to ~~telemedicine~~
 35 **telehealth** services must be the same annual or lifetime dollar limit that
 36 applies in the aggregate to all items and services covered under the
 37 policy.
 38 (d) A separate consent for ~~telemedicine~~ **telehealth** services may not
 39 be required.
 40 **(e) A policy may not require that telehealth services be provided**
 41 **using a specific technology application.**
 42 SECTION 25. IC 27-8-34-7, AS ADDED BY P.L.185-2015,



1 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 UPON PASSAGE]: Sec. 7. This chapter does not do any of the
3 following:

4 (1) Require a policy to provide coverage for a ~~telemedicine~~
5 **telehealth** service that is not a covered health care service under
6 the policy.

7 (2) Require the use of ~~telemedicine~~ **telehealth** services when the
8 treating provider has determined that ~~telemedicine~~ **telehealth**
9 services are inappropriate.

10 (3) Prevent the use of utilization review concerning coverage for
11 ~~telemedicine~~ **telehealth** services in the same manner as utilization
12 review is used concerning coverage for the same health care
13 services delivered to a covered individual in person.

14 SECTION 26. IC 27-13-1-34, AS ADDED BY P.L.185-2015,
15 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 UPON PASSAGE]: Sec. 34. (a) "~~Telemedicine~~ "**Telehealth** services"
17 means health care services delivered by use of ~~interactive audio, video,~~
18 ~~or other electronic media;~~ **technology allowed under IC 25-1-9.5-6,**
19 including the following:

20 (1) Medical exams and consultations.

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

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

25 (1) ~~A telephone transmitter for transtelephonic monitoring.~~

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

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

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

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



- 1 individual contract or the group contract.
- 2 (d) This section does not do any of the following:
- 3 (1) Require an individual contract or a group contract to provide
- 4 coverage for a ~~telemedicine~~ **telehealth** service that is not a
- 5 covered health care service under the individual contract or group
- 6 contract.
- 7 (2) Require the use of ~~telemedicine~~ **telehealth** services when the
- 8 treating provider has determined that ~~telemedicine~~ **telehealth**
- 9 services are inappropriate.
- 10 (3) Prevent the use of utilization review concerning coverage for
- 11 ~~telemedicine~~ **telehealth** services in the same manner as utilization
- 12 review is used concerning coverage for the same health care
- 13 services delivered to an enrollee in person.
- 14 (e) A separate consent for ~~telemedicine~~ **telehealth** services may not
- 15 be required.
- 16 **(f) An individual contract or group contract may not require**
- 17 **that telehealth services be provided using a specific technology**
- 18 **application.**
- 19 SECTION 28. **An emergency is declared for this act.**



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 3, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 28, after "any" insert "**location**".

Page 2, line 30, delete "405".

Page 2, delete lines 31 through 34.

Page 3, line 9, strike "videoconferencing equipment" and insert "**technology allowed under IC 25-1-9.5-6**".

Page 4, line 19, strike "that is a prescriber".

Page 4, line 20, strike "IC 25-1-9.5-4," and insert "**IC 25-1-9.5-3.5**".

Page 5, delete lines 28 through 42, begin a new paragraph and insert:

"SECTION 11. IC 25-1-9.5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. As used in this chapter, "practitioner" means an individual who holds an unlimited license to practice as any of the following in Indiana:**

- (1) An athletic trainer licensed under IC 25-5.1.
- (2) A chiropractor licensed under IC 25-10.
- (3) A dental hygienist licensed under IC 25-13.
- (4) The following:
 - (A) A dentist licensed under IC 25-14.
 - (B) An individual who holds a dental residency permit issued under IC 25-14-1-5.
 - (C) An individual who holds a dental faculty license under IC 25-14-1-5.5.
- (5) A diabetes educator licensed under IC 25-14.3.
- (6) A dietitian licensed under IC 25-14.5.
- (7) A genetic counselor licensed under IC 25-17.3.
- (8) The following:
 - (A) A physician licensed under IC 25-22.5.
 - (B) An individual who holds a temporary permit under IC 25-22.5-5-4.
- (9) A nurse licensed under IC 25-23.
- (10) An occupational therapist licensed under IC 25-23.5.
- (11) Any behavioral health and human services professional licensed under IC 25-23.6.
- (12) An optometrist licensed under IC 25-24.



- (13) A pharmacist licensed under IC 25-26.
- (14) A physical therapist licensed under IC 25-27.
- (15) A physician assistant licensed under IC 25-27.5.
- (16) A podiatrist licensed under IC 25-29.
- (17) A psychologist licensed under IC 25-33.
- (18) A respiratory care practitioner licensed under IC 25-34.5.
- (19) A speech-language pathologist or audiologist licensed under IC 25-35.6.
- (20) A veterinarian licensed under IC 25-38.1."

Page 6, delete lines 1 through 8.

Page 6, line 25, delete ":" and insert "**unless the practitioner has an established relationship with the patient:**".

Page 6, between lines 33 and 34, begin a new paragraph and insert:
"SECTION 14. IC 25-1-9.5-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.5. A veterinarian licensed under IC 25-38.1 may only provide telehealth services to a patient with which the veterinarian has already established a veterinarian-client-patient relationship as described in IC 25-38.1-1-14.5.**"

Page 11, between lines 39 and 40, begin a new paragraph and insert:
"SECTION 22. IC 25-1-9.5-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14. Nothing in this chapter requires an individual to provide or use telehealth.**"

Page 13, line 38, strike "(a)".

Page 13, line 40, strike "interactive audio, video, or other electronic media," and insert "**technology allowed under IC 25-1-9.5-6,**".

Page 14, strike lines 3 through 7.

Page 15, line 2, strike "(a)".

Page 15, line 3, strike "interactive audio, video,".

Page 15, line 4, strike "or other electronic media," and insert "**technology allowed under IC 25-1-9.5-6,**".

Page 15, strike lines 8 through 12.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 3 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 10, Nays 0.

SB 3—LS 6855/DI 104



SENATE MOTION

Madam President: I move that Senate Bill 3 be amended to read as follows:

Page 7, delete lines 2 through 8.

Re-number all SECTIONS consecutively.

(Reference is to SB 3 as printed January 29, 2021.)

CHARBONNEAU

