



Reprinted
February 15, 2022

ENGROSSED SENATE BILL No. 284

DIGEST OF SB 284 (Updated February 14, 2022 2:42 pm - DI 92)

Citations Affected: IC 12-7; IC 12-15; IC 25-1.

Synopsis: Telehealth matters. Consolidates Medicaid telehealth language. Provides that "health care services" does not include certain case management services, care management services, service coordination services, or care coordination services for purposes of telehealth. Adds school psychologists, specified developmental therapists, peers, clinical fellows, students and graduates of certain professional programs, physical therapist assistants, and certain community mental health center providers to the definition of "practitioner" for purposes of practicing telehealth. Allows behavior health analysts to temporarily perform telehealth during the time when the professional licensing agency is preparing to implement licensure for the profession.

Effective: July 1, 2022.

Charbonneau, Doriot, Bassler, Becker, Breaux, Pol Jr.

(HOUSE SPONSOR — BARRETT)

January 10, 2022, read first time and referred to Committee on Health and Provider Services.

January 20, 2022, amended, reported favorably — Do Pass.

January 24, 2022, read second time, ordered engrossed. Engrossed.

January 25, 2022, read third time, passed. Yeas 46, nays 0.

HOUSE ACTION

February 1, 2022, read first time and referred to Committee on Public Health.

February 10, 2022, amended, reported — Do Pass.

February 14, 2022, read second time, amended, ordered engrossed.

ES 284—LS 6719/DI 104



Reprinted
February 15, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 284

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 AMENDED BY P.L.85-2021,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 190.3. (a) "~~Telehealth activities~~", for purposes of
4 ~~IC 12-15-5-11~~, has the meaning set forth in ~~IC 12-15-5-11(a)~~.
5 (b) "~~Telehealth services~~", for purposes of IC 12-15-5-11, has the
6 meaning set forth in ~~IC 12-15-5-11(b)~~: **IC 12-15-5-11(a)**.
7 SECTION 2. IC 12-15-5-11, AS AMENDED BY P.L.207-2021,
8 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2022]: Sec. 11. (a) As used in this section, "~~telehealth~~
10 ~~activities~~" means the use of telecommunications and information
11 technology to provide access to:
12 (1) health assessment;
13 (2) diagnosis;
14 (3) intervention;
15 (4) consultation;
16 (5) supervision; and
17 (6) information;

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- 1 across a distance.
- 2 ~~(b)~~ **(b)** As used in this section, "telehealth services" has the meaning set
- 3 forth for "telehealth" in IC 25-1-9.5-6.
- 4 ~~(c)~~ **(c)** The office shall reimburse a Medicaid provider who is licensed
- 5 as a home health agency under IC ~~16-27-1~~ for telehealth activities.
- 6 ~~(d)~~ **(b)** The office shall reimburse the following Medicaid providers
- 7 for medically necessary 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 home health agency licensed under IC 16-27-1.**
- 16 ~~(5)~~ **(6)** A provider, as determined by the office to be eligible,
- 17 providing a covered telehealth service.
- 18 ~~(e)~~ **(c)** The office may not impose any distance restrictions on
- 19 providers of telehealth activities or telehealth services. Before
- 20 December 31, 2017, the office shall do the following:
- 21 ~~(1)~~ **(1)** Submit a Medicaid state plan amendment with the United
- 22 States Department of Health and Human Services that eliminates
- 23 distance restrictions for telehealth activities or telehealth services
- 24 in the state Medicaid plan.
- 25 ~~(2)~~ **(2)** Issue a notice of intent to adopt a rule to amend any
- 26 administrative rules that include distance restrictions for the
- 27 provision of telehealth activities or telehealth services.
- 28 ~~(f)~~ **(d)** Subject to federal law, the office may not impose any location
- 29 requirements concerning the originating site or distant site in which a
- 30 telehealth service is provided to a Medicaid recipient.
- 31 ~~(g)~~ **(e)** 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 ~~(h)~~ **(f)** For purposes of a community mental health center, telehealth
- 37 services satisfy any face to face meeting requirement between a
- 38 clinician and consumer.
- 39 ~~(i)~~ **(g)** The office shall implement any part of this section that is
- 40 approved by the United States Department of Health and Human
- 41 Services.
- 42 ~~(j)~~ **(h)** The office may adopt rules under IC 4-22-2 necessary to



- 1 implement and administer this section.
 2 SECTION 3. IC 25-1-9.5-2.5, AS ADDED BY P.L.85-2021,
 3 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2022]: Sec. 2.5. **(a)** As used in this chapter, "health care
 5 services" includes the following:
 6 **(1) The following concerning a patient:**
 7 **(A)** Assessment.
 8 **(B)** Diagnosis.
 9 **(C)** Evaluation.
 10 **(D)** Consultation.
 11 **(E)** Treatment. ~~and~~
 12 **(F)** Monitoring of a patient.
 13 **(2)** Transfer of medical data.
 14 **(3)** Patient health related education.
 15 **(4)** Health administration.
 16 **(b) The term does not include case management services, care**
 17 **management services, service coordination services, or care**
 18 **coordination services:**
 19 **(1) as defined in IC 12-7-2-25;**
 20 **(2) provided to individuals under the Indiana Medicaid**
 21 **program or Medicaid waivers; or**
 22 **(3) provided to individuals under any other programs**
 23 **administered by the office of the secretary of family and social**
 24 **services or the Indiana department of health.**
 25 SECTION 4. IC 25-1-9.5-3.5, AS AMENDED BY P.L.207-2021,
 26 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2022]: Sec. 3.5. **(a)** As used in this chapter, "practitioner"
 28 means an individual who holds an unlimited license to practice as any
 29 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 issued
 36 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) **The following:**
 6 (A) An occupational therapist licensed under IC 25-23.5.
 7 (B) **An occupational therapy assistant licensed under**
 8 **IC 25-23.5.**
 9 (11) Any behavioral health and human services professional
 10 licensed under IC 25-23.6.
 11 (12) An optometrist licensed under IC 25-24.
 12 (13) A pharmacist licensed under IC 25-26.
 13 (14) A physical therapist licensed under IC 25-27.
 14 (15) A physician assistant licensed under IC 25-27.5.
 15 (16) A podiatrist licensed under IC 25-29.
 16 (17) A psychologist licensed under IC 25-33.
 17 (18) A respiratory care practitioner licensed under IC 25-34.5.
 18 (19) A speech-language pathologist or audiologist licensed under
 19 IC 25-35.6.
 20 (20) A veterinarian licensed under IC 25-38.1.
 21 (21) A behavior analyst licensed under IC 25-8.5.
 22 (22) **A school psychologist licensed by the department of**
 23 **education.**
 24 (23) **A physical therapist assistant certified under**
 25 **IC 25-27-1-6.3.**
 26 (b) **The term includes the following:**
 27 (1) **A developmental therapist enrolled by the bureau of child**
 28 **development services to provide special instruction, as defined**
 29 **in 34 CFR 303.13(b)(14), to infants and toddlers receiving**
 30 **early intervention services.**
 31 (2) **A peer as defined in IC 12-21-8-5 and certified by the**
 32 **division of mental health and addiction.**
 33 (3) **A clinical fellow in speech language pathology.**
 34 (4) **A student who:**
 35 (A) **is pursuing a course of study in, or is a graduate from,**
 36 **a program in a profession specified in subsection (a)(1)**
 37 **through (a)(22); and**
 38 (B) **is providing services directed by an individual who**
 39 **holds a license in Indiana for that profession.**
 40 (5) **The following providers within a community mental health**
 41 **center:**
 42 (A) **A qualified behavioral health professional.**



1 **(B) Other behavioral health professional.**

2 **(c) The term includes a behavior analyst during the time in**
 3 **which the professional licensing agency is preparing to implement**
 4 **licensure of behavioral analysts under IC 25-8.5. This subsection**
 5 **expires January 1, 2025.**

6 SECTION 5. IC 25-1-9.5-6, AS AMENDED BY P.L.207-2021,
 7 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2022]: Sec. 6. (a) As used in this chapter, "telehealth" means
 9 the delivery of health care services using interactive electronic
 10 communications and information technology, in compliance with the
 11 federal Health Insurance Portability and Accountability Act (HIPAA),
 12 including:

- 13 (1) secure videoconferencing;
 14 (2) store and forward technology; or
 15 (3) remote patient monitoring technology;

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

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

- 19 (1) Electronic mail.
 20 (2) An instant messaging conversation.
 21 (3) Facsimile.
 22 (4) Internet questionnaire.
 23 (5) Internet consultation.

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

- 25 (1) an employee of a practitioner; or
 26 (2) an individual who is employed by the same entity that
 27 employs the practitioner;

28 who is performing a health care service listed in section **2.5(a)(1)(D)**
 29 **through 2.5(a)(1)(F), 2.5(2), 2.5(3), or 2.5(4) 2.5(a)(2), 2.5(a)(3), or**
 30 **2.5(a)(4)** of this chapter under the direction and that is customarily
 31 within the specific area of practice of the practitioner.

32 SECTION 6. IC 25-1-9.5-7, AS AMENDED BY P.L.85-2021,
 33 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2022]: Sec. 7. (a) A practitioner who:

- 35 (1) provides health care services through telehealth; or
 36 (2) directs an employee of the practitioner to perform a health
 37 care service listed in section ~~2.5(2); 2.5(3);~~ **2.5(a)(2), 2.5(a)(3),**
 38 ~~or 2.5(4)~~ **2.5(a)(4)** of this chapter;

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

41 (b) A practitioner who uses telehealth shall, if such action would
 42 otherwise be required in the provision of the same health care services



1 in a manner other than telehealth, ensure that a proper provider-patient
2 relationship is established. The provider-patient relationship by a
3 practitioner who uses telehealth must at a minimum include the
4 following:

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

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

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

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

12 (3) Obtain informed consent from the patient.

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

15 (5) Discuss with the patient the:

16 (A) diagnosis;

17 (B) evidence for the diagnosis; and

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

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

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

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

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

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

41 (c) The medical records under subsection (b)(6) must be created and
42 maintained by the practitioner under the same standards of appropriate



- 1 practice for medical records for patients in an in-person setting.
2 (d) A patient waives confidentiality of any medical information
3 discussed with the practitioner that is:
4 (1) provided during a telehealth visit; and
5 (2) heard by another individual in the vicinity of the patient
6 during a health care service or consultation.
7 (e) An employer may not require a practitioner, by an employment
8 contract, an agreement, a policy, or any other means, to provide a
9 health care service through telehealth if the practitioner believes that
10 providing a health care service through telehealth would:
11 (1) negatively impact the patient's health; or
12 (2) result in a lower standard of care than if the health care service
13 was provided in an in-person setting.
14 (f) Any applicable contract, employment agreement, or policy to
15 provide telehealth services must explicitly provide that a practitioner
16 may refuse at any time to provide health care services if in the
17 practitioner's sole discretion the practitioner believes:
18 (1) that health quality may be negatively impacted; or
19 (2) the practitioner would be unable to provide the same standards
20 of appropriate practice as those provided in an in-person setting.



COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 284, 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 3, line 38, after "(10)" insert "**The following:**

(A)".

Page 3, between lines 38 and 39, begin a new line double block indented and insert:

"(B) An occupational therapy assistant licensed under IC 25-23.5."

Page 4, line 7, delete "25-35.6." and insert "25-35.6, **including a clinical fellow in speech-language pathology.**"

Page 5, line 7, delete "(F)," and insert "**2.5(1)(F),**".

and when so amended that said bill do pass.

(Reference is to SB 284 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 12, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 284, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 4, after "2.5." insert "**(a)**".

Page 3, between lines 15 and 16, begin a new paragraph and insert:

"(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."

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Page 4, delete lines 10 and 11, and insert "IC 25-35.6."

Page 4, delete lines 16 through 25, begin a new paragraph and insert:

"(b) The term includes the following:

(1) A developmental therapist enrolled by the bureau of child development services to provide special instruction, as defined in 34 CFR 303.13(b)(14), to infants and toddlers receiving early intervention services.

(2) A peer as defined in IC 12-21-8-5 and certified by the division of mental health and addiction.

(3) A clinical fellow in speech language pathology.

(4) A student who is:

(A) pursuing a course of study or a graduate from a program in a profession specified in subsection (a)(1) through (a)(22); and

(B) providing services directed by an individual who holds a license in Indiana for that profession.

(5) The following providers within a community mental health center:

(A) A qualified behavioral health professional.

(B) Other behavioral health professional."

Page 4, line 26, delete "(b)" and insert "(c)".

Page 5, line 10, delete "2.5(1)(D)" and insert "**2.5(a)(1)(D)**".

Page 5, line 11, delete "2.5(1)(F)," and insert "**2.5(a)(1)(F)**".

Page 5, line 11, strike "2.5(2), 2.5(3), or 2.5(4)" and insert "**2.5(a)(2), 2.5(a)(3), or 2.5(a)(4)**".

Page 5, line 13, delete "In order to be excluded from the term under this".

Page 5, delete lines 14 through 19, begin a new paragraph and insert:

"SECTION 6. IC 25-1-9.5-7, AS AMENDED BY P.L.85-2021, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: 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), 2.5(a)(2), 2.5(a)(3), or 2.5(4)~~ **2.5(a)(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
 - (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."

and when so amended that said bill do pass.

(Reference is to SB 284 as printed January 21, 2022.)

BARRETT

Committee Vote: yeas 12, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 284 be amended to read as follows:

Page 4, between lines 23 and 24, begin a new line block indented and insert:

"(23) A physical therapist assistant certified under IC 25-27-1-6.3."

(Reference is to ESB 284 as printed February 10, 2022.)

VERMILION

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 284 be amended to read as follows:

Page 4, delete lines 32 through 37, begin a new line block indented and insert:

"(4) A student who:

(A) is pursuing a course of study in, or is a graduate from, a program in a profession specified in subsection (a)(1) through (a)(22); and

(B) is providing services directed by an individual who holds a license in Indiana for that profession."

(Reference is to ESB 284 as printed February 10, 2022.)

BARRETT

