

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.

## SENATE ENROLLED ACT No. 284

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

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

SECTION 1. IC 12-7-2-190.3, AS AMENDED BY P.L.85-2021, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 190.3. (a) ~~"Telehealth activities", for purposes of IC 12-15-5-11, has the meaning set forth in IC 12-15-5-11(a):~~

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

SECTION 2. IC 12-15-5-11, AS AMENDED BY P.L.207-2021, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 11. (a) As used in this section, ~~"telehealth activities" means the use of telecommunications and information technology to provide access to:~~

- (1) health assessment;
- (2) diagnosis;
- (3) intervention;
- (4) consultation;
- (5) supervision; and
- (6) information;

~~across a distance.~~

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

(c) ~~The office shall reimburse a Medicaid provider who is licensed~~

SEA 284 — CC 1



as a home health agency under IC 16-27-1 for telehealth activities.

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

- (1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).
- (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
- (3) A community mental health center certified under IC 12-21-2-3(5)(C).
- (4) A critical access hospital that meets the criteria under 42 CFR 485.601 et seq.

**(5) A home health agency licensed under IC 16-27-1.**

~~(5)~~ **(6)** A provider, as determined by the office to be eligible, providing a covered telehealth service.

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

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

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

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

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

- (1) provided during a telehealth visit; and
- (2) heard by another individual in the vicinity of the Medicaid recipient during a health care service or consultation.

~~(h)~~ **(f)** For purposes of a community mental health center, telehealth services satisfy any face to face meeting requirement between a clinician and consumer.

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

~~(j)~~ **(h)** The office may adopt rules under IC 4-22-2 necessary to implement and administer this section.

SECTION 3. IC 25-1-9.5-2.5, AS ADDED BY P.L.85-2021, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2.5. **(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. ~~and~~
- (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.**

SECTION 4. IC 25-1-9.5-3.5, AS AMENDED BY P.L.207-2021, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 3.5. **(a)** 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) The following:****(A)** An occupational therapist licensed under IC 25-23.5.**(B) An occupational therapy assistant 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.

(21) A behavior analyst licensed under IC 25-8.5.

**(22) A school psychologist licensed by the department of education.****(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:****(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.****(5) The following providers within a community mental health center:****(A) A qualified behavioral health professional.****(B) Other behavioral health professional.****(6) A physical therapist assistant certified under IC 25-27-1-6.3.****(c) The term includes a behavior analyst during the time in which the professional licensing agency is preparing to implement licensure of behavioral analysts under IC 25-8.5. This subsection**

**expires January 1, 2025.**

SECTION 5. IC 25-1-9.5-6, AS AMENDED BY P.L.207-2021, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: 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)~~ **2.5(a)(2), 2.5(a)(3), or 2.5(a)(4)** of this chapter under the direction and that is customarily within the specific area of practice of the practitioner.

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.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

SEA 284 — CC 1

