

# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

**Introduced**

### **Senate Bill 1**

BY SENATORS TAKUBO, WELD, BALDWIN, PLYMALE,  
STOLLINGS, JEFFRIES, WOELFEL, ROBERTS, MARONEY,  
NELSON, ROMANO, GRADY, WOODRUM, AND LINDSAY

[Introduced February 10, 2021; referred  
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §5-16-7b of the Code of West Virginia, 1931, as amended; to amend  
 2 and reenact §30-1-26 of said code; to amend and reenact §30-14-12d of said code; to  
 3 amend and reenact §30-30-13a of said code; and to amend and reenact §33-57-1 of said  
 4 code, all relating to telehealth services; defining terms; requiring plans to provide  
 5 reimbursement for a telehealth service on the same basis and at the same rate as if the  
 6 service is provided in-person; permitting physician-patient relationship to begin with an  
 7 audio-only call or conversation in real time; and adding criteria to the standard of care  
 8 related to telehealth services.

9 *Be it enacted by the Legislature of West Virginia:*

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE  
 GOVERNOR, SECRETARY OF STATE, AND ATTORNEY GENERAL;  
 BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,  
 COMMISSIONS, OFFICES, PROGRAMS, ETC.**

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-7b. Coverage for telehealth services.**

1 (a) The following terms are defined:

2 (1) "Distant site" means the telehealth site where the health care practitioner is seeing the  
 3 patient at a distance or consulting with a patient's health care practitioner.

4 (2) "Health care practitioner" means a person licensed under §30-1-1 *et seq.* of this code  
 5 who provides health care services.

6 (3) "Originating site" means the location where the patient is located, whether or not  
 7 accompanied by a health care practitioner, at the time services are provided by a health care  
 8 practitioner through telehealth, including, but not limited to, a health care practitioner's office,  
 9 hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's

10 home, and other nonmedical environments such as school-based health centers, university-  
11 based health centers, or the work location of a patient.

12 (4) "Remote patient monitoring services" means the delivery of home health services using  
13 telecommunications technology to enhance the delivery of home health care, including monitoring  
14 of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood glucose, and  
15 other condition-specific data; medication adherence monitoring; and interactive video  
16 conferencing with or without digital image upload.

17 (5) "Telehealth services" means the use of synchronous or asynchronous  
18 telecommunications technology by a health care practitioner to provide health care services,  
19 including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a  
20 patient; transfer of medical data; patient and professional health-related education; public health  
21 services; and health administration. The term does not include ~~audio-only telephone calls~~, e-mail  
22 messages, or facsimile transmissions.

23 (b) After July 1, 2020, the plan shall provide coverage of health care services provided  
24 through telehealth services if those same services are covered through face-to-face consultation  
25 by the policy.

26 (c) After July 1, 2020, the plan may not exclude a service for coverage solely because the  
27 service is provided through telehealth services.

28 ~~The plan shall provide reimbursement for a telehealth service at a rate negotiated~~  
29 ~~between the provider and the insurance company.~~ The plan shall provide reimbursement for a  
30 telehealth service on the same basis and at the same rate under a contract, plan, agreement, or  
31 policy as if the service is provided through an in-person encounter rather than provided via  
32 telehealth.

33 (e) The plan may not impose any annual or lifetime dollar maximum on coverage for  
34 telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate  
35 to all items and services covered under the policy, or impose upon any person receiving benefits

36 pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year,  
37 calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services,  
38 that is not equally imposed upon all terms and services covered under the policy, contract, or  
39 plan.

40 (f) An originating site may charge the plan a site fee.

41 (g) The coverage required by this section shall include the use of telehealth technologies  
42 as it pertains to medically necessary remote patient monitoring services to the full extent that  
43 those services are available.

## CHAPTER 30. PROFESSIONS AND OCCUPATIONS

### ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

#### §30-1-26. Telehealth practice.

1 (a) For the purposes of this section:

2 “Health care practitioner” means a person licensed under §30-1-1 *et seq.* who provides  
3 health care services.

4 “Telehealth services” means the use of synchronous or asynchronous  
5 telecommunications technology by a health care practitioner to provide health care services,  
6 including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a  
7 patient; transfer of medical data; patient and professional health-related education; public health  
8 services; and health administration. The term does not include ~~audio-only telephone calls~~ e-mail  
9 messages, or facsimile transmissions.

10 (b) Unless already provided for by statute or legislative rule, a health care board, referred  
11 to in this chapter, shall propose a rule for legislative approval in accordance with the provisions  
12 of §29A-3-1 *et seq.* to regulate telehealth practice by a telehealth practitioner. The proposed rule  
13 shall consist of the following:

14 (1) The practice of the health care service occurs where the patient is located at the time  
15 the telehealth technologies are used;

16 (2) The health care practitioner who practices telehealth must be licensed as provided in  
17 this chapter;

18 (3) When the health care practitioner patient relationship is established;

19 (4) The standard of care;

20 (5) A prohibition of prescribing schedule II drugs, unless authorized by another section;

21 and

22 (6) Implement the provisions of this section while ensuring competency, protecting the  
23 citizens of this state from harm, and addressing issues specific to each profession.

### **ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.**

#### **§30-3-13a. Telemedicine practice; requirements; exceptions; definitions; rule-making.**

1 (a) Definitions. – For the purposes of this section:

2 (1) “Chronic nonmalignant pain” means pain that has persisted after reasonable medical  
3 efforts have been made to relieve the pain or cure its cause and that has continued, either  
4 continuously or episodically, for longer than three continuous months. “Chronic nonmalignant  
5 pain” does not include pain associated with a terminal condition or illness or with a progressive  
6 disease that, in the normal course of progression, may reasonably be expected to result in a  
7 terminal condition or illness.

8 (2) “Physician” means a person licensed by the West Virginia Board of Medicine to practice  
9 allopathic medicine in West Virginia.

10 (3) “Store and forward telemedicine” means the asynchronous computer-based  
11 communication of medical data or images from an originating location to a physician or podiatrist  
12 at another site for the purpose of diagnostic or therapeutic assistance.

13 (4) “Telemedicine” means the practice of medicine using tools such as electronic  
14 communication, information technology, store and forward telecommunication, or other means of

15 interaction between a physician or podiatrist in one location and a patient in another location, with  
16 or without an intervening health care provider.

17 (5) "Telemedicine technologies" means technologies and devices which enable secure  
18 electronic communications and information exchange in the practice of telemedicine, and typically  
19 involve the application of secure real-time audio/video conferencing or similar secure video  
20 services, remote monitoring or store and forward digital image technology to provide or support  
21 health care delivery by replicating the interaction of a traditional in-person encounter between a  
22 physician or podiatrist and a patient.

23 (b) Licensure. –

24 (1) The practice of medicine occurs where the patient is located at the time the  
25 telemedicine technologies are used.

26 (2) A physician or podiatrist who practices telemedicine must be licensed as provided in  
27 this article.

28 (3) This section does not apply to:

29 (A) An informal consultation or second opinion, at the request of a physician or podiatrist  
30 who is licensed to practice medicine or podiatry in this state, provided that the physician or  
31 podiatrist requesting the opinion retains authority and responsibility for the patient's care; and

32 (B) Furnishing of medical assistance by a physician or podiatrist in case of an emergency  
33 or disaster, if no charge is made for the medical assistance.

34 (c) Physician-patient or Podiatrist-patient relationship through telemedicine encounter. –

35 (1) A physician-patient or podiatrist-patient relationship may not be established through:

36 ~~(A) Audio-only communication;~~

37 ~~(B) Text-based communications such as e-mail, Internet questionnaires, text-based~~  
38 ~~messaging or other written forms of communication; or~~

39 ~~(C) Any combination thereof.~~

40 (2) If an existing physician-patient or podiatrist-patient relationship does not exist prior to

41 the utilization to telemedicine technologies, or if services are rendered solely through telemedicine  
42 technologies, a physician-patient or podiatrist-patient relationship may only be established:

43 (A) Through the use of telemedicine technologies which incorporate interactive audio  
44 using store and forward technology, real-time videoconferencing or similar secure video services  
45 during the initial physician-patient or podiatrist-patient encounter; ~~or~~

46 (B) For the practice of pathology and radiology, a physician-patient relationship may be  
47 established through store and forward telemedicine or other similar technologies; ~~or~~

48 (C) Through the use of audio-only calls or conversations that occur in real time.

49 (3) Once a physician-patient or podiatrist-patient relationship has been established, either  
50 through an in-person encounter or in accordance with subdivision (2) of this subsection, the  
51 physician or podiatrist may utilize any telemedicine technology that meets the standard of care  
52 and is appropriate for the patient presentation.

53 (d) Telemedicine practice. –

54 A physician or podiatrist using telemedicine technologies to practice medicine or podiatry  
55 shall:

56 (1) Verify the identity and location of the patient;

57 (2) Provide the patient with confirmation of the identity and qualifications of the physician  
58 or podiatrist;

59 (3) Provide the patient with the physical location and contact information of the physician;

60 (4) Establish or maintain a physician-patient or podiatrist-patient relationship that conforms  
61 to the standard of care;

62 (5) Determine whether telemedicine technologies are appropriate for the patient  
63 presentation for which the practice of medicine or podiatry is to be rendered;

64 (6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

65 (7) Conduct all appropriate evaluations and history of the patient consistent with traditional  
66 standards of care for the patient presentation;

67 (8) Create and maintain health care records for the patient which justify the course of  
68 treatment and which verify compliance with the requirements of this section; and

69 (9) The requirements of subdivisions (1) through (8), inclusive, of this subsection do not  
70 apply to the practice of pathology or radiology medicine through store and forward telemedicine.

71 (e) Standard of care. –

72 The practice of medicine or podiatry provided via telemedicine technologies, including the  
73 establishment of a physician-patient or podiatrist-patient relationship and issuing a prescription  
74 via electronic means as part of a telemedicine encounter, are subject to the same standard of  
75 care, professional practice requirements and scope of practice limitations as traditional in-person  
76 physician-patient or podiatrist-patient encounters. Treatment, including issuing a prescription,  
77 based solely on an online questionnaire, does not constitute an acceptable standard of care. A  
78 patient can have no more than three telemedicine consultations without an in-person primary care  
79 visit. The patient shall visit a primary care physician or podiatrist within 12 months of using the  
80 initial telemedicine service or the telemedicine service shall no longer be available to the patient  
81 until an in-person primary care visit is obtained. A physician who participates in the practice of  
82 telemedicine pursuant to the provisions of this section shall not prescribe controlled substance  
83 medications listed in Schedules II through V of the Uniform Controlled Substances Act to the  
84 patient until such time as the physician has evaluated the patient in-person or pursuant to the  
85 provisions of §30-3-13a(c)(2)(A) of this code.

86 (f) Patient records. –

87 The patient record established during the use of telemedicine technologies shall be  
88 accessible and documented for both the physician or podiatrist and the patient, consistent with  
89 the laws and legislative rules governing patient health care records. All laws governing the  
90 confidentiality of health care information and governing patient access to medical records shall  
91 apply to records of practice of medicine or podiatry provided through telemedicine technologies.  
92 A physician or podiatrist solely providing services using telemedicine technologies shall make



93 documentation of the encounter easily available to the patient, and subject to the patient's  
94 consent, to any identified care provider of the patient.

95 (g) Prescribing limitations. –

96 (1) A physician or podiatrist who practices medicine to a patient solely through the  
97 utilization of telemedicine technologies may not prescribe to that patient any controlled  
98 substances listed in Schedule II of the Uniform Controlled Substances Act.

99 (2) The prescribing limitations in this subsection do not apply when a physician is providing  
100 treatment to patients who are minors, or if 18 years of age or older, who are enrolled in a primary  
101 or secondary education program and are diagnosed with intellectual or developmental disabilities,  
102 neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury in accordance  
103 with guidelines as set forth by organizations such as the American Psychiatric Association, the  
104 American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics.  
105 The physician must maintain records supporting the diagnosis and the continued need of  
106 treatment.

107 (3) The prescribing limitations in this subsection do not apply to a hospital, excluding the  
108 emergency department, when a physician submits an order to dispense a controlled substance,  
109 listed in Schedule II of the Uniform Controlled Substances Act, to a hospital patient for immediate  
110 administration in a hospital.

111 (4) A physician or podiatrist may not prescribe any pain-relieving controlled substance  
112 listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of  
113 treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

114 (5) A physician or health care provider may not prescribe any drug with the intent of  
115 causing an abortion. The term “abortion” has the same meaning ascribed to it in §16-2F-2 of this  
116 code.

117 (h) Exceptions. –

118 This article does not prohibit the use of audio-only or text-based communications by a

119 physician or podiatrist who is:

120 (1) Responding to a call for patients with whom a physician-patient or podiatrist-patient  
121 relationship has been established through an in-person encounter by the physician or podiatrist;

122 (2) Providing cross coverage for a physician or podiatrist who has established a physician-  
123 patient or podiatrist-patient relationship with the patient through an in-person encounter; or

124 (3) Providing medical assistance in the event of an emergency.

125 (i) Rulemaking. –

126 The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine  
127 may propose joint rules for legislative approval in accordance with §29A-3-1 et seq., of this code  
128 to implement standards for and limitations upon the utilization of telemedicine technologies in the  
129 practice of medicine and podiatry in this state.

130 (j) Preserving traditional physician-patient or podiatrist-patient relationship. –

131 Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities  
132 incident to the physician-patient or podiatrist-patient relationship, nor is it meant or intended to  
133 change in any way the personal character of the physician-patient or podiatrist-patient  
134 relationship. This section does not alter the scope of practice of any health care provider or  
135 authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized  
136 by law.

## **ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.**

### **§30-14-12d. Telemedicine practice; requirements; exceptions; definitions; rulemaking.**

1 (a) Definitions. – For the purposes of this section:

2 (1) “Chronic nonmalignant pain” means pain that has persisted after reasonable medical  
3 efforts have been made to relieve the pain or cure its cause and that has continued, either  
4 continuously or episodically, for longer than three continuous months. “Chronic nonmalignant  
5 pain” does not include pain associated with a terminal condition or illness or with a progressive  
6 disease that, in the normal course of progression, may reasonably be expected to result in a

7 terminal condition or illness.

8 (2) "Physician" means a person licensed by the West Virginia Board of Osteopathic  
9 Medicine to practice osteopathic medicine in West Virginia.

10 (3) "Store and forward telemedicine" means the asynchronous computer-based  
11 communication of medical data or images from an originating location to a physician at another  
12 site for the purpose of diagnostic or therapeutic assistance.

13 (4) "Telemedicine" means the practice of medicine using tools such as electronic  
14 communication, information technology, store and forward telecommunication or other means of  
15 interaction between a physician in one location and a patient in another location, with or without  
16 an intervening health care provider.

17 (5) "Telemedicine technologies" means technologies and devices which enable secure  
18 electronic communications and information exchange in the practice of telemedicine, and typically  
19 involve the application of secure real-time audio/video conferencing or similar secure video  
20 services, remote monitoring or store and forward digital image technology to provide or support  
21 health care delivery by replicating the interaction of a traditional in-person encounter between a  
22 physician and a patient.

23 (b) Licensure. –

24 (1) The practice of medicine occurs where the patient is located at the time the  
25 telemedicine technologies are used.

26 (2) A physician who practices telemedicine must be licensed as provided in this article.

27 (3) This section does not apply to:

28 (A) An informal consultation or second opinion, at the request of a physician who is  
29 licensed to practice medicine in this state, provided that the physician requesting the opinion  
30 retains authority and responsibility for the patient's care; and

31 (B) Furnishing of medical assistance by a physician in case of an emergency or disaster  
32 if no charge is made for the medical assistance.

33 (c) Physician-patient relationship through telemedicine encounter. –

34 (1) A physician-patient relationship may not be established through:

35 ~~(A) Audio-only communication;~~

36 ~~(B) Text-based communications such as e-mail, Internet questionnaires, text-based~~  
37 ~~messaging or other written forms of communication; or,~~

38 ~~(C) Any combination thereof.~~

39 (2) If an existing physician-patient relationship is not present prior to the utilization to  
40 telemedicine technologies, or if services are rendered solely through telemedicine technologies,  
41 a physician-patient relationship may only be established:

42 (A) Through the use of telemedicine technologies which incorporate interactive audio  
43 using store and forward technology, real-time videoconferencing or similar secure video services  
44 during the initial physician-patient encounter; or

45 (B) For the practice of pathology and radiology, a physician-patient relationship may be  
46 established through store and forward telemedicine or other similar technologies; or

47 (C) Through the use of audio-only calls or conversations that occur in real time.

48 (3) Once a physician-patient relationship has been established, either through an in-  
49 person encounter or in accordance with subdivision (2) of this subsection, the physician may  
50 utilize any telemedicine technology that meets the standard of care and is appropriate for the  
51 patient presentation.

52 (d) Telemedicine practice. – A physician using telemedicine technologies to practice  
53 medicine shall:

54 (1) Verify the identity and location of the patient;

55 (2) Provide the patient with confirmation of the identity and qualifications of the physician;

56 (3) Provide the patient with the physical location and contact information of the physician;

57 (4) Establish or maintain a physician-patient relationship which conforms to the standard  
58 of care;

59 (5) Determine whether telemedicine technologies are appropriate for the patient  
60 presentation for which the practice of medicine is to be rendered;

61 (6) Obtain from the patient appropriate consent for the use of telemedicine technologies;

62 (7) Conduct all appropriate evaluations and history of the patient consistent with traditional  
63 standards of care for the patient presentation;

64 (8) Create and maintain health care records for the patient which justify the course of  
65 treatment and which verify compliance with the requirements of this section; and

66 (9) The requirements of subdivisions (1) through (7), inclusive, of this subsection do not  
67 apply to the practice of pathology or radiology medicine through store and forward telemedicine.

68 (e) Standard of care. –

69 The practice of medicine provided via telemedicine technologies, including the  
70 establishment of a physician-patient relationship and issuing a prescription via electronic means  
71 as part of a telemedicine encounter, are subject to the same standard of care, professional  
72 practice requirements and scope of practice limitations as traditional in-person physician-patient  
73 encounters. Treatment, including issuing a prescription, based solely on an online questionnaire  
74 does not constitute an acceptable standard of care. A patient can have no more than three  
75 telemedicine consultations without an in-person primary care visit. The patient shall visit a primary  
76 care physician or podiatrist within 12 months of using the initial telemedicine service or the  
77 telemedicine service shall no longer be available to the patient until an in-person primary care  
78 visit is obtained. A physician who participates in the practice of telemedicine pursuant to the  
79 provisions of this section shall not prescribe controlled substance medications listed in Schedules  
80 II through V of the Uniform Controlled Substances Act to the patient until such time as the physician  
81 has evaluated the patient in-person or pursuant to the provisions of §30-3-13a(c)(2)(A) of this  
82 code.

83 (f) Patient records. –

84 The patient record established during the use of telemedicine technologies shall be

85 accessible and documented for both the physician and the patient, consistent with the laws and  
86 legislative rules governing patient health care records. All laws governing the confidentiality of  
87 health care information and governing patient access to medical records shall apply to records of  
88 practice of medicine provided through telemedicine technologies. A physician solely providing  
89 services using telemedicine technologies shall make documentation of the encounter easily  
90 available to the patient, and subject to the patient's consent, to any identified care provider of the  
91 patient.

92 (g) Prescribing limitations. –

93 (1) A physician or podiatrist who practices medicine to a patient solely through the  
94 utilization of telemedicine technologies may not prescribe to that patient any controlled  
95 substances listed in Schedule II of the Uniform Controlled Substances Act.

96 (2) The prescribing limitations in this subsection do not apply when a physician is providing  
97 treatment to patients who are minors, or if 18 years of age or older, who are enrolled in a primary  
98 or secondary education program and are diagnosed with intellectual or developmental disabilities,  
99 neurological disease, Attention Deficit Disorder, Autism, or a traumatic brain injury in accordance  
100 with guidelines as set forth by organizations such as the American Psychiatric Association, the  
101 American Academy of Child and Adolescent Psychiatry or the American Academy of Pediatrics.  
102 The physician must maintain records supporting the diagnosis and the continued need of  
103 treatment.

104 (3) The prescribing limitations in this subsection do not apply to a hospital, excluding the  
105 emergency department, when a physician submits an order to dispense a controlled substance,  
106 listed in Schedule II of the Uniform Controlled Substances Act, to a hospital patient for immediate  
107 administration in a hospital.

108 (4) A physician or podiatrist may not prescribe any pain-relieving controlled substance  
109 listed in Schedules II through V of the Uniform Controlled Substance Act as part of a course of  
110 treatment for chronic nonmalignant pain solely based upon a telemedicine encounter.

111 (5) A physician or health care provider may not prescribe any drug with the intent of  
112 causing an abortion. The term “abortion” has the same meaning ascribed to it in §16-2F-2 of this  
113 code.

114 (h) Exceptions. –

115 This section does not prohibit the use of audio-only or text-based communications by a  
116 physician who is:

117 (1) Responding to a call for patients with whom a physician-patient relationship has been  
118 established through an in-person encounter by the physician;

119 (2) Providing cross coverage for a physician who has established a physician-patient or  
120 relationship with the patient through an in-person encounter; or

121 (3) Providing medical assistance in the event of an emergency.

122 (i) Rulemaking. –

123 The West Virginia Board of Medicine and West Virginia Board of Osteopathic Medicine  
124 may propose joint rules for legislative approval in accordance with §29A-3-1 et seq., of this code  
125 to implement standards for and limitations upon the utilization of telemedicine technologies in the  
126 practice of medicine in this state.

127 (j) Preservation of the traditional physician-patient relationship. –

128 Nothing in this section changes the rights, duties, privileges, responsibilities and liabilities  
129 incident to the physician-patient relationship, nor is it meant or intended to change in any way the  
130 personal character of the physician-patient relationship. This section does not alter the scope of  
131 practice of any health care provider or authorize the delivery of health care services in a setting,  
132 or in a manner, not otherwise authorized by law.

## **CHAPTER 33. INSURANCE**

### **ARTICLE 57. REQUIRED COVERAGE FOR HEALTH INSURANCE.**

#### **§33-57-1. Coverage of telehealth services.**

1 (a) The following terms are defined:

2 (1) "Distant site" means the telehealth site where the health care practitioner is seeing the  
3 patient at a distance or consulting with a patient's health care practitioner.

4 (2) "Health care practitioner" means a person licensed under §30-1-1 *et seq.* of this code  
5 who provides health care services.

6 (3) "Originating site" means the location where the patient is located, whether or not  
7 accompanied by a health care practitioner, at the time services are provided by a health care  
8 practitioner through telehealth, including, but not limited to, a health care practitioner's office,  
9 hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's  
10 home, and other nonmedical environments such as school-based health centers, university-  
11 based health centers, or the work location of a patient.

12 (4) "Remote patient monitoring services" means the delivery of home health services  
13 using telecommunications technology to enhance the delivery of home health care, including  
14 monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood  
15 glucose, and other condition-specific data; medication adherence monitoring; and interactive  
16 video conferencing with or without digital image upload.

17 (5) "Telehealth services" means the use of synchronous or asynchronous  
18 telecommunications technology by a health care practitioner to provide health care services,  
19 including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a  
20 patient; transfer of medical data; patient and professional health-related education; public health  
21 services; and health administration. The term does not include ~~audio-only telephone calls~~ e-mail  
22 messages, or facsimile transmissions.

23 (b) Notwithstanding the provisions of §33-1-1 *et seq.* of this code, an insurer subject to  
24 §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 *et seq.* of  
25 this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide  
26 coverage of health care services provided through telehealth services if those same services are



27 covered through face-to-face consultation by the policy.

28 (c) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et*  
29 *seq.*, and §33-25A-1 *et seq.* of this code which issues or renews a health insurance policy on or  
30 after July 1, 2020, may not exclude a service for coverage solely because the service is provided  
31 through telehealth services.

32 ~~(d) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et*~~  
33 ~~*seq.*, and §33-25A-1 *et seq.*, of this code shall provide reimbursement for a telehealth service at~~  
34 ~~a rate negotiated between the provider and the insurance company~~ The plan shall provide  
35 reimbursement for a telehealth service on the same basis and at the same rate under a contract,  
36 plan, agreement, or policy as if the service is provided through an in-person encounter rather than  
37 provided via telehealth.

38 (e) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et*  
39 *seq.*, and §33-25A-1 *et seq.* of this code may not impose any annual or lifetime dollar maximum  
40 on coverage for telehealth services other than an annual or lifetime dollar maximum that applies  
41 in the aggregate to all items and services covered under the policy, or impose upon any person  
42 receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts,  
43 or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for  
44 benefits or services, that is not equally imposed upon all terms and services covered under the  
45 policy, contract, or plan.

46 (f) An originating site may charge an insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*,  
47 §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 *et seq.* of this code a site fee.

48 (g) The coverage required by this section shall include the use of telehealth technologies  
49 as it pertains to medically necessary remote patient monitoring services to the full extent that  
50 those services are available.

NOTE: The purpose of this bill is to provide for parity of payment for telehealth services between a service in-person and a service provided through a telehealth platform, to permit the physician patient relationship to be established though audio-only means and to set

forth standard of care additional criteria for the use of the audio-only telehealth platform.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.