February 8, 2021

HOUSE BILL No. 1286

DIGEST OF HB 1286 (Updated February 8, 2021 3:29 pm - DI 77)

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. Provides for a standard definition of telehealth in titles 12, 16, 25, and 27. 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". Expands the application of the telehealth statute to additional licensed practitioners instead of applying only to prescribers. Provides that veterinarians may provide telehealth services only when an existing veterinarian-client-patient relationship has been established. 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. Amends requirements for a prescriber issuing a prescription to a patient via telehealth services. Specifies that a patient waives confidentiality of medical information concerning individuals in the vicinity when the patient is using telehealth. Prohibits certain health care policies that provide coverage for telehealth services from requiring the use of a specific information technology application for those services.

Effective: Upon passage.

Lindauer, Barrett, Vermilion, Teshka

January 14, 2021, read first time and referred to Committee on Public Health.
February 8, 2021, amended, reported — Do Pass.

February 8, 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.

HOUSE BILL No. 1286

A BILL FOR AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 12-7-2-190.4 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 190.4. "Telemedicine services", for purposes of IC 12-15-5-11, has the meaning set forth in IC 12-15-5-11(b).~~

SECTION 2. IC 12-15-5-11, AS AMENDED BY P.L.150-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, **clinical services, rehabilitation services,** and information across a distance.

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

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

~~(d)~~ **(c)** The office shall reimburse the following Medicaid providers for medically necessary ~~telemedicine~~ **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 provider, as determined by the office to be eligible, providing a covered ~~telemedicine service.~~ **telehealth service.**

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

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

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

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

(f) 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.

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

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

SECTION 3. IC 16-18-2-348.5, AS ADDED BY P.L.185-2015, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 348.5. ~~"Telemedicine",~~ **"Telehealth",** for purposes of IC 16-36-1, means ~~a specific method of delivery of services, including medical exams and consultations and behavioral health evaluations and treatment, including those for substance abuse, using videoconferencing equipment to allow a provider to render an examination or other service to a patient at a distant location. The term does not include the use of the following:~~ **the use of telecommunications and information technology to provide access**

to health assessment, diagnosis, intervention, consultation, supervision, clinical services, rehabilitation services, and information across a distance.

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

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

SECTION 4. IC 16-36-1-15, AS ADDED BY P.L.185-2015, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A health care provider (as defined in IC 16-18-2-163(a)) may not be required to obtain a separate additional written health care consent for the provision of ~~telemedicine~~ **telehealth** services.

SECTION 5. IC 25-1-2-10, AS ADDED BY P.L.121-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section, "board" means any of the following boards:

(1) The medical licensing board of Indiana.
(2) The Indiana state board of nursing.
(3) The state board of dentistry.
(4) The behavioral health and human services licensing board.
(5) The state psychology board.
(6) The Indiana board of pharmacy.

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

(1) an unlimited license, certificate, or registration;
(2) a limited or probationary license, certificate, or registration;
(3) a temporary license, certificate, registration, or permit;
(4) an intern permit; or
(5) a provisional license;

issued by the board regulating the profession in question.

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

(1) IC 25-14-1.
(2) IC 25-22.5-5.
(3) IC 25-23.
(4) IC 25-23.6.
(5) IC 25-26.
(6) IC 25-27.5.
(7) IC 25-33.

(d) To allow for programmatic and policy recommendations to improve workforce performance, address identified workforce shortages, and retain practitioners, beginning January 1, 2019, every practitioner who is renewing online a license issued by a board must

include the following information related to the practitioner's work in Indiana under the practitioner's license during the previous two (2) years:

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

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

(A) The location or address.

(B) The setting type.

(C) The average hours worked weekly.

(D) The health care services provided.

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

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

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

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

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

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

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

(A) The office of Medicaid policy and planning.

(B) The department of workforce development.

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

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

(E) The office of the attorney general.

SECTION 6. IC 25-1-9.5-1, AS AMENDED BY P.L.150-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter does not prohibit a provider, prescriber, insurer, or patient from agreeing to an alternative location of the patient, provider, or prescriber to conduct ~~telemedicine.~~ **telehealth.**

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

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

SECTION 8. IC 25-1-9.5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. As used in this chapter, "health care services" includes the following:**

(1) Assessment, diagnosis, evaluation, consultation, treatment, and monitoring of a patient.

(2) Transfer of medical data performed or directed by a practitioner.

(3) Patient health related education performed or directed by a practitioner.

(4) Public health services and health administration performed or directed by a practitioner.

SECTION 9. IC 25-1-9.5-3, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. As used in this chapter, "originating site" means any site at which a patient is located at the time health care services through ~~telemedicine~~ **telehealth** are provided to the individual.

SECTION 10. 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 any of the following:**

(1) An individual who holds:

(A) an unlimited license, certificate, or registration;

(B) a limited or probationary license, certificate, or registration;

(C) a temporary license, certificate, registration, or permit;

(D) an intern permit;

(E) a provisional license; or

(F) a post graduate training permit;

issued by the board regulating the profession in question, including a certificate of registration issued under IC 25-20, and who provides health care services under this chapter that are within the individual's scope of practice. The term includes a student pursuing a course of study that is required for licensure by a board and who is providing services directed by a licensed individual of the same profession who is eligible to provide telehealth under this section.

(2) An individual who:

(A) does not qualify as a practitioner under subdivision (1);

(B) has a license, certificate, registration, permit, or is otherwise approved by an Indiana state governmental department, division, bureau, or agency to provide health care services; and

(C) provides health care services under this chapter that are within the scope of practice under the individual's license, certificate, registration, permit, or approval.

SECTION 11. IC 25-1-9.5-4, AS AMENDED BY P.L.247-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "prescriber" means any of the following:

(1) A physician licensed under IC 25-22.5.

(2) A physician assistant licensed under IC 25-27.5 and granted the authority to prescribe by the physician assistant's collaborating physician in accordance with IC 25-27.5-5-4.

(3) An advanced practice registered nurse licensed and granted the authority to prescribe drugs under IC 25-23.

(4) An optometrist licensed under IC 25-24.

(5) A podiatrist licensed under IC 25-29.

(6) A dentist licensed under IC 25-14.

(7) A veterinarian licensed under IC 25-38.1.

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

SECTION 13. IC 25-1-9.5-6, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this chapter, ~~"telemedicine"~~ **"telehealth"** means the ~~delivery~~ **use** of ~~health care services using electronic communications and information technology, including:~~ **telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, clinical services, rehabilitation services, and information across a distance.**

~~(1)~~ secure ~~videoconferencing;~~

~~(2)~~ interactive ~~audio-using~~ 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:~~

~~(1) Audio-only communication.~~

~~(2) A telephone call.~~

~~(3) Electronic mail.~~

~~(4) An instant messaging conversation.~~

~~(5) Facsimile.~~

~~(6) Internet questionnaire.~~

~~(7) Telephone consultation.~~

~~(8) Internet consultation.~~

(b) A practitioner providing telehealth services shall, if such action would otherwise be required in the provision of the same health care services in person, ensure that a proper provider-patient relationship is established as described in IC 25-1-9.5-7.

(c) Nothing in this chapter shall be construed to alter or expand a practitioner's scope of practice.

(d) No practitioner shall be forced to provide services through telehealth if they are uncomfortable providing services through telehealth.

SECTION 14. IC 25-1-9.5-7, AS AMENDED BY P.L.129-2018, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A ~~prescriber~~ **practitioner** who provides ~~health care services through telemedicine~~ **telehealth services** 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 ~~prescriber~~ **practitioner** may not use ~~telemedicine,~~ **telehealth,** including **a prescriber** issuing a prescription, ~~for an individual who is located in Indiana~~ unless a provider-patient relationship between the ~~prescriber~~ **practitioner** and the individual has been established. A ~~prescriber~~ **practitioner** who uses ~~telemedicine~~ **telehealth** shall, if such action would otherwise be required in the provision of the same health care services in a manner other than ~~telemedicine,~~ **telehealth,** ensure that a proper provider-patient relationship is established. The provider-patient relationship by a ~~prescriber~~ **practitioner** who uses ~~telemedicine~~ **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 ~~prescriber's~~ **practitioner's** name and disclose

~~whether the prescriber is a physician, physician assistant, advanced practice registered nurse, optometrist, or podiatrist.~~ **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) **If applicable and in accordance with the practitioner's scope of practice,** discuss with the patient ~~the.~~ **any:**

(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 ~~prescriber~~ **practitioner** is using an electronic health record system that the patient's primary care provider is authorized to access.

(B) The ~~prescriber~~ **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 ~~telemedicine~~ **telehealth** services. If the conditions of this clause are met, the ~~prescriber~~ **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 ~~telemedicine~~ **telehealth** visit summary to the patient, including information that indicates any prescription that is being prescribed.

(c) Notwithstanding subsection (d), 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.

(d) A practitioner may only establish a provider-patient relationship using the following electronic communications and information technology:

(1) Secure videoconferencing.

(2) Store and forward technology.

(3) Audio-only communication, including a telephone call.

(e) A practitioner may not establish a provider-patient relationship with the following electronic communications and information technology:

(1) electronic mail;

(2) an instant messaging conversation;

(3) a text message; or

(4) facsimile;

unless the use of that technology is in conjunction with the establishment of a provider-patient relationship as described in subsection (d). This subsection does not prohibit a practitioner from using the listed electronic communications and information technology once a provider-patient relationship has been established pursuant to subsection (d) or through an in-person visit.

(f) Visits required every four (4) months for patients with a stable treatment plan pursuant to 844 IAC 5-6-6 may be conducted via telehealth.

(g) 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.

(h) 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.

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

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

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

(3) The prescription:

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

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

opioid dependence.

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

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

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

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

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

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

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

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

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

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

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

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

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

care services in Indiana when the ~~prescriber.~~ **practitioner:**

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

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

an individual who is located in Indiana.

(b) A ~~prescriber~~ **practitioner** described in subsection (a) may not establish a provider-patient relationship under this chapter with or issue a prescription under this chapter for an individual who is located in Indiana unless the ~~prescriber~~ **practitioner** and the ~~prescriber's~~ **practitioner's** employer or the ~~prescriber's~~ **practitioner's** contractor, for purposes of providing health care services under this chapter, have certified in writing to the Indiana professional licensing agency, in a manner specified by the Indiana professional licensing agency, that the ~~prescriber~~ **practitioner** and the ~~prescriber's~~ **practitioner's** employer or ~~prescriber's~~ **practitioner's** contractor agree to be subject to:

(1) the jurisdiction of the courts of law of Indiana; and

(2) Indiana substantive and procedural laws;

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

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

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

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

(b) A ~~prescriber's~~ **practitioner's** employer or a ~~prescriber's~~ **practitioner's** contractor that violates this section commits a Class B

infraction for each act in which a certification is not filed as required by section 9 of this chapter.

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

SECTION 19. IC 25-1-9.5-12, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The Indiana professional licensing agency may adopt policies or rules under IC 4-22-2 necessary to implement this chapter. Adoption of policies or rules under this section may not delay the implementation and provision of ~~telemedicine~~ **telehealth** services under this chapter.

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

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

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

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

(A) Chronic health conditions.

(B) Current medications.

(C) Eye discomfort.

(D) Blurry vision.

(E) Any prior ocular medical procedures.

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

(4) If the patient desires a contact lens prescription, at the discretion of the eye care professional, that patient must have had a prior contact lens fitting or evaluation by a qualified eye care professional that occurred within two (2) years before the initial

use of ~~telemedicine~~ **telehealth** for a refraction under subdivision (5)(A).

(5) The patient:

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

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

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

(7) The prescriber must ensure that the transfer of all information, including the vision test and prescription, comply with HIPAA requirements.

(8) The prescriber must use technology to allow the patient to have continuing twenty-four (24) hour a day online access to the patient's prescription as soon as the prescription is signed by the prescriber.

SECTION 21. IC 25-22.5-2-7, AS AMENDED BY P.L.249-2019, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The board shall do the following:

(1) Adopt rules and forms necessary to implement this article that concern, but are not limited to, the following areas:

(A) Qualification by education, residence, citizenship, training, and character for admission to an examination for licensure or by endorsement for licensure.

(B) The examination for licensure.

(C) The license or permit.

(D) Fees for examination, permit, licensure, and registration.

(E) Reinstatement of licenses and permits.

(F) Payment of costs in disciplinary proceedings conducted by the board.

(2) Administer oaths in matters relating to the discharge of the board's official duties.

(3) Enforce this article and assign to the personnel of the agency duties as may be necessary in the discharge of the board's duty.

(4) Maintain, through the agency, full and complete records of all applicants for licensure or permit and of all licenses and permits issued.

(5) Make available, upon request, the complete schedule of

minimum requirements for licensure or permit.

(6) Issue, at the board's discretion, a temporary permit to an applicant for the interim from the date of application until the next regular meeting of the board.

(7) Issue an unlimited license, a limited license, or a temporary medical permit, depending upon the qualifications of the applicant, to any applicant who successfully fulfills all of the requirements of this article.

(8) Adopt rules establishing standards for the competent practice of medicine, osteopathic medicine, or any other form of practice regulated by a limited license or permit issued under this article.

(9) Adopt rules regarding the appropriate prescribing of Schedule III or Schedule IV controlled substances for the purpose of weight reduction or to control obesity.

(10) Adopt rules establishing standards for office based procedures that require moderate sedation, deep sedation, or general anesthesia.

(11) Adopt rules or protocol establishing the following:

(A) An education program to be used to educate women with high breast density.

(B) Standards for providing an annual screening or diagnostic test for a woman who is at least forty (40) years of age and who has been determined to have high breast density.

As used in this subdivision, "high breast density" means a condition in which there is a greater amount of breast and connective tissue in comparison to fat in the breast.

(12) Adopt rules establishing standards and protocols for the prescribing of controlled substances.

(13) Adopt rules as set forth in IC 25-23.4 concerning the certification of certified direct entry midwives.

(14) In consultation with the state department of health and the office of the secretary of family and social services, adopt rules under IC 4-22-2 or protocols concerning the following for providers that are providing office based opioid treatment:

(A) Requirements of a treatment agreement (as described in IC 12-23-20-2) concerning the proper referral and treatment of mental health and substance use.

(B) Parameters around the frequency and types of visits required for the periodic scheduled visits required by IC 12-23-20-2.

(C) Conditions on when the following should be ordered or performed:

(i) A urine toxicology screening.

(ii) HIV, hepatitis B, and hepatitis C testing.

(D) Required documentation in a patient's medical record when buprenorphine is prescribed over a specified dosage.

(15) Adopt rules as set forth in IC 25-14.5 concerning the certification of certified dietitians.

(b) The board may adopt rules that establish:

(1) certification requirements for child death pathologists;

(2) an annual training program for child death pathologists under IC 16-35-7-3(b)(2); and

(3) a process to certify a qualified child death pathologist.

(c) The board may adopt rules under IC 4-22-2 establishing guidelines for the practice of ~~telemedicine~~ **telehealth** in Indiana. Adoption of rules under this subsection may not delay the implementation and provision of ~~telemedicine~~ **telehealth** services by a provider under IC 25-1-9.5.

SECTION 22. IC 27-8-34-5, AS ADDED BY P.L.185-2015, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. ~~(a)~~ As used in this chapter, ~~"telemedicine services" means health care services delivered by use of interactive audio, video, or other electronic media, including the following:~~ **"telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, clinical services, rehabilitation services, and information across a distance.**

~~(1) Medical exams and consultations.~~

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

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

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

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

SECTION 23. IC 27-8-34-6, AS ADDED BY P.L.185-2015, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A policy must provide coverage for ~~telemedicine~~ **telehealth** services in accordance with the same clinical criteria as the policy provides coverage for the same health care services delivered in person.

(b) Coverage for ~~telemedicine~~ **telehealth** services required by subsection (a) may not be subject to a dollar limit, deductible, or coinsurance requirement that is less favorable to a covered individual

than the dollar limit, deductible, or coinsurance requirement that applies to the same health care services delivered to a covered individual in person.

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

(d) A separate consent for ~~telemedicine~~ **telehealth** services may not be required.

(e) If a policy provides coverage for telehealth services via:

(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, the policy may not require the use of a specific information technology application for those services.

SECTION 24. IC 27-8-34-7, AS ADDED BY P.L.185-2015, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. This chapter does not do any of the following:

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

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

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

SECTION 25. IC 27-13-1-34, AS ADDED BY P.L.185-2015, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) ~~"Telemedicine~~ **"Telehealth** services" ~~means health care services delivered by use of interactive audio, video, or other electronic media, including the following:~~ **means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, clinical services, rehabilitation services, and information across a distance.**

~~(1) Medical exams and consultations.~~

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

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

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

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

SECTION 26. IC 27-13-7-22, AS ADDED BY P.L.185-2015, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) An individual contract or a group contract must provide coverage for ~~telemedicine~~ **telehealth** services in accordance with the same clinical criteria as the individual contract or the group contract provides coverage for the same health care services delivered to an enrollee in person.

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

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

(d) This section does not do any of the following:

(1) Require an individual contract or a group contract to provide coverage for a ~~telemedicine~~ **telehealth** service that is not a covered health care service under the individual contract or group contract.

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

(3) Prevent the use of utilization review concerning coverage for ~~telemedicine~~ **telehealth** services in the same manner as utilization review is used concerning coverage for the same health care services delivered to an enrollee in person.

(e) A separate consent for ~~telemedicine~~ **telehealth** services may not be required.

(f) If a policy provides coverage for telehealth services via:

(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, the policy may not require the use of a specific information technology application for those services.

SECTION 27. **An emergency is declared for this act.**

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1286, 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 1, line 9, after "supervision," insert "**clinical services, rehabilitation services,**".

Page 2, line 36, strike "a specific method of delivery of".

Page 2, strike lines 37 through 39.

Page 2, line 40, strike "examination or other service to a patient at a distant location.".

Page 2, line 41, after "following:" insert "**the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, clinical services, rehabilitation services, and information across a distance.**".

Page 5, line 8, delete "data." and insert "**data performed or directed by a practitioner.**".

Page 5, line 9, delete "education." and insert "**education performed or directed by a practitioner.**".

Page 5, line 10, delete "administration." and insert "**administration performed or directed by a practitioner.**".

Page 5, delete lines 16 through 29, begin a new paragraph and insert:

"SECTION 10. 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 any of the following:**

(1) An individual who holds:

(A) an unlimited license, certificate, or registration;

(B) a limited or probationary license, certificate, or registration;

(C) a temporary license, certificate, registration, or permit;

(D) an intern permit;

(E) a provisional license; or

(F) a post graduate training permit;

issued by the board regulating the profession in question, including a certificate of registration issued under IC 25-20, and who provides health care services under this chapter that are within the individual's scope of practice. The term includes a student pursuing a course of study that is required for licensure by a board and who is providing services

directed by a licensed individual of the same profession who is eligible to provide telehealth under this section.

(2) An individual who:

(A) does not qualify as a practitioner under subdivision (1);

(B) has a license, certificate, registration, permit, or is otherwise approved by an Indiana state governmental department, division, bureau, or agency to provide health care services; and

(C) provides health care services under this chapter that are within the scope of practice under the individual's license, certificate, registration, permit, or approval.".

Page 6, delete lines 8 through 28, begin a new paragraph and insert:

"SECTION 13. IC 25-1-9.5-6, AS ADDED BY P.L.78-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this chapter, ~~"telemedicine"~~ **"telehealth"** means the ~~delivery~~ **use** of ~~health care services using electronic communications and information technology, including:~~ **telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, clinical services, rehabilitation services, and information across a distance.**

~~(1) secure videoconferencing;~~

~~(2) interactive audio using 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:~~

~~(1) Audio-only communication.~~

~~(2) A telephone call.~~

~~(3) Electronic mail.~~

~~(4) An instant messaging conversation.~~

~~(5) Facsimile.~~

~~(6) Internet questionnaire.~~

~~(7) Telephone consultation.~~

~~(8) Internet consultation.~~".

Page 7, line 4, strike "for an individual who is".

Page 7, line 5, strike "located in Indiana".

Page 8, between lines 9 and 10, begin a new paragraph and insert:

"**(c) Notwithstanding subsection (d), 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 8, line 10, delete "(c)" and insert "**(d)**".

Page 8, line 11, delete "interactive".

Page 8, line 16, delete "(d)" and insert "**(e)**".

Page 8, line 21, after "message;" insert "**or**".

Page 8, delete lines 23 through 24.

Page 8, line 27, delete "(c)" and insert "**(d)**".

Page 8, line 30, delete "(c)" and insert "**(d)**".

Page 8, line 31, delete "(e)" and insert "**(f)**".

Page 8, line 34, delete "(f)" and insert "**(g)**".

Page 8, line 38, delete "(g)" and insert "**(h)**".

Page 9, strike lines 34 through 40.

Page 9, between lines 40 and 41, begin a new line block indented and insert:

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

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

Page 9, after line 42, begin a new line block indented and insert:

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

Page 14, line 26, strike "(a)".

Page 14, line 27, delete ""telehealth".

Page 14, line 27, strike "services" means health care services delivered by use of ".

Page 14, strike line 28.

Page 14, line 29, strike "following:" and insert ""**telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, clinical services, rehabilitation services, and information across a distance.**".

Page 14, strike lines 30 through 37.

Page 15, between lines 13 and 14, begin a new paragraph and insert:

"**(e) If a policy provides coverage for telehealth services via:**

(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, the policy may not require the use of a specific information technology application for those services.".

Page 15, strike line 31.

Page 15, line 32, strike "or other electronic media, including the following:" and insert "**means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, clinical services, rehabilitation services, and information across a distance.**".

Page 15, strike lines 33 through 40.

Page 16, between lines 28 and 29, begin a new paragraph and insert:

"**(f) If a policy provides coverage for telehealth services via:**

(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, the policy may not require the use of a specific information technology application for those services.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1286 as introduced.)

BARRETT

Committee Vote: yeas 11, nays 0.