**Uniform Telehealth Act**

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT

IN ALL THE STATES

at its

ANNUAL CONFERENCE

MEETING IN ITS ONE-HUNDRED-AND-THIRTY-FIRST YEAR

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By

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

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**Uniform Telehealth Act**

# Section 1. Title

 This [act] may be cited as the Uniform Telehealth Act.

# Section 2. Definitions

In this [act]:

(1) “Board” means an entity to which a state has granted the authority to license, certify, or discipline individuals who provide health care.

(2) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) “Health care” means care, treatment, or a service or procedure, to maintain, monitor, diagnose, or otherwise affect an individual’s physical or mental illness, injury, or condition.

(4) “Out-of-state practitioner” means an individual licensed, certified, or otherwise authorized by law of another state to provide health care in that state.

(5) “Practitioner” means an individual:

(A) licensed or certified under[: cite to applicable state statutes

(i)…

(ii) …]; or

(B) otherwise authorized by law of this state, including through the registration process established under Section 7, to provide health care in this state.

(6) “Professional practice standard” includes:

 (A) a standard of care;

 (B) a standard of professional ethics; and

(C) a practice requirement imposed by a board.

(7) “Registered practitioner” means an out-of-state practitioner registered under Section 7.

(8) “Registering board” means a board of this state that registers out-of-state practitioners under Section 7.

(9) “Scope of practice” means the extent of a practitioner’s authority to provide health care.

(10) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(11) “Telecommunication technology” means technology that supports communication through electronic means. The term is not limited to regulated technology or technology associated with a regulated industry.

(12) “Telehealth” means use of synchronous or asynchronous telecommunication technology by a practitioner to provide health care to a patient at a different physical location than the practitioner.

(13) “Telehealth services” means health care provided through telehealth.

***Legislative Note:*** *In paragraph (5)(A), a state should cite the statutes that provide for licensure or certification of the types of practitioners whose provision of telehealth services is subject to this act.*

# Section 3. Scope

(a) This [act] applies to the provision of telehealth services to a patient located in this state.

(b) This [act] does not apply to the provision of telehealth services to a patient located outside this state.

# Section 4. Telehealth Authorization

(a) A practitioner may provide telehealth services to a patient located in this state if the services are consistent with the practitioner’s scope of practice in this state, applicable professional practice standards in this state, and requirements and limitations of federal law and law of this state.

(b) This [act] does not authorize provision of health care otherwise regulated by federal law or law of this state, unless the provision of the health care complies with the requirements, limitations, and prohibitions of the federal law or law of this state.

(c) A practitioner-patient relationship may be established through telehealth.

# Section 5. Professional Practice Standard

(a) A practitioner who provides telehealth services to a patient located in this state shall provide the services in compliance with the professional practice standards applicable to a practitioner who provides comparable in-person health care in this state. Professional practice standards and law applicable to the provision of health care in this state, including standards and law relating to prescribing medication or treatment, identity verification, documentation, informed consent, confidentiality, privacy, and security, apply to the provision of telehealth services in this state.

(b) A board or agency in this state may not adopt or enforce a rule that establishes a different professional practice standard for telehealth services or limits the telecommunication technology that may be used for telehealth services.

# Section 6. Out-of-State Practitioner

(a) An out-of-state practitioner may provide telehealth services to a patient located in this state if the out-of-state practitioner:

(1) holds a license or certification required to provide the health care in this state or is otherwise authorized to provide the health care in this state, including through a multistate compact of which this state is a member;

(2) registers under Section 7 with the registering board responsible for licensing or certifying practitioners who provide the type of health care the out-of-state practitioner provides; or

(3) provides the telehealth services:

(A) in consultation with a practitioner who has a practitioner-patient relationship with the patient;

(B) in the form of a specialty assessment, diagnosis, or recommendation for treatment; or

(C) pursuant to a previously established practitioner-patient relationship[ if the telehealth services are provided not later than [one year] after the practitioner with whom the patient has a relationship last provided health care to the patient].

(b) A requirement for licensure or certification of an out-of-state practitioner who supervises an out-of-state practitioner providing telehealth services may be satisfied through registration under Section 7.

[(c) A requirement for licensure or certification of an out-of-state practitioner who controls or is otherwise associated with an entity that provides health care to a patient located in this state may be satisfied through registration under Section 7 if the entity does not provide in-person health care to a patient located in this state.]

***Legislative Note:*** *A state that wishes to limit the length of time for which an out-of-state practitioner may provide health care, including follow-up care, under the authorization of subsection (a)(3)(C) should enact the bracketed provision. The state should specify the length of time for which the authorization is granted.*

*A state that imposes a licensure or certification requirement on an individual who controls or is otherwise associated with an entity that provides health care to a patient located in this state should enact subsection (c) if, in the case of a telehealth provider, the state wishes to allow an out-of-state practitioner to meet the requirement through registration.*

# Section 7. Board Registration of Out-of-State Practitioner

(a) A board established under [cite to relevant state statutes]shall register, for the purpose of providing telehealth services in this state, an out-of-state practitioner not licensed, certified, or otherwise authorized to provide health care in this state if the practitioner:

(1) submits a completed application in the form prescribed by the registering board;

(2) holds an active, unrestricted license or certification in another state that is substantially equivalent to a license or certification issued by the registering board to provide health care;

(3) is not subject to a pending disciplinary investigation or action by a board;

(4) has not been disciplined by a board during the [five]-year period immediately before submitting the application, other than discipline relating to a fee payment or continuing education requirement addressed to the satisfaction of the board that took the disciplinary action;

(5) never has been disciplined on a ground that the registering board determines would be a basis for denying a license or certification in this state;

(6) consents to personal jurisdiction in this state for an action arising out of the provision of a telehealth service in this state;

 (7) appoints a [registered][statutory] agent for service of process in this state [in accordance with other law of this state] and identifies the agent in the form prescribed by the registering board;

(8) has professional liability insurance that includes coverage for telehealth services provided to patients located in this state in an amount not less than the amount required for a practitioner providing the same services in this state; and

(9) pays the registration fee under subsection (d).

(b) A registering board may not register under this [act] an out-of-state practitioner if the practitioner does not satisfy all requirements of subsection (a).

 (c) A registering board shall create an application for registration under subsection (a) and a form for identifying the agent under subsection (a)(7).

(d) A registering board may establish a registration fee that reflects the expected cost of registration under this section and the cost of undertaking investigation, disciplinary action, and other activity relating to registered practitioners.

(e) A registering board shall make available to the public information about registered practitioners in the same manner it makes available to the public information about licensed or certified practitioners authorized to provide comparable health care in this state.

(f) This section does not affect other law of this state relating to an application by an out-of-state practitioner for licensure or certification.

***Legislative Note:*** *In subsection (a), a state should specify the boards that are required to register out-of-state practitioners under this section.*

*In subsection (a)(7), a state should enact the bracketed provision if it has law governing the appointment of an agent for service of process.*

# Section 8. Disciplinary Action by Registering Board

(a) A registering board may take disciplinary action against a registered practitioner who:

(1) violates this [act];

(2) holds a license or certification that has been restricted in a state; or

(3) has been disciplined by a board, other than discipline relating to a fee payment or continuing education requirement addressed to the satisfaction of the board that imposed the discipline.

(b) A registering board may take an action under subsection (a) that it is authorized to take against a licensed or certified practitioner who provides comparable health care in this state.

(c) Disciplinary action under this section includes suspension or revocation of the registered practitioner’s registration in accordance with other law of this state applicable to disciplinary action against a practitioner who provides comparable health care in this state.

#  Section 9. Duties of Registered Practitioner

A registered practitioner:

(1) shall notify the registering board not later than [ten] days after a board in another state notifies the practitioner that it has initiated an investigation, placed a restriction on the practitioner’s license or certification, or taken a disciplinary action against the practitioner;

(2) shall maintain professional liability insurance that includes coverage for telehealth services provided to patients located in this state in an amount not less than the amount required for a licensed or certified practitioner providing the same services in this state; and

(3) may not open an office physically located in this state or provide in-person health care to a patient located in this state.

# Section 10. Location of Care; Venue

(a) The provision of a telehealth service under this [act] occurs at the patient’s location at the time the service is provided.

(b) In a civil action arising out of a practitioner’s provision of a telehealth service to a patient under this [act], brought by the patient [or the patient’s personal representative, conservator, guardian, or a person entitled to bring a claim under the state’s wrongful death statute], venue is proper in the patient’s [county] of residence in this state or in another [county] authorized by law.

***Legislative Note:*** *In subsection (b), a state should include the bracketed text or other appropriate terms if (1) state law does not make clear that the reference to an action brought by the patient includes an action brought by a person acting in place or on behalf of the patient or (2) the state wishes to apply subsection (b) to a person that brings a claim under the state’s wrongful death statute.*

# [Section 11. Rulemaking Authority

[A board] may adopt rules under [cite to state administrative procedure act] to administer, enforce, implement, or interpret this [act].]

***Legislative Note:*** *A state should include this section only if the state’s administrative procedure act does not provide adequate rulemaking authority to the board or an umbrella agency on behalf of the board. If state law does not authorize boards to engage in rulemaking, but instead delegates rulemaking authority to an umbrella agency, the name of the agency should be inserted instead of “a board”.*

# Section 12. Uniformity of Application and Construction

 In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

#  [Section 13. Severability

 If a provision of this [act] or its application to a person or circumstance is held invalid, the invalidity does not affect another provision or application that can be given effect without the invalid provision.]

***Legislative Note:*** *Include this section only if the state lacks a general severability statute or a**decision by the highest court of the state stating a general rule of severability.*

#  [Section 14. Repeals; Conforming Amendments

 (a) . . .

 (b) . . .]

***Legislative Note:*** *A state should examine its statutes to determine whether conforming revisions are required by provisions of this act relating to telehealth services.*

#  Section 15. Effective Date

 This [act] takes effect . . .