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FOR APPROVAL

## Uniform Telehealth Act

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Uniform Law Commission

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MEETING IN ITS ONE-HUNDRED-AND-THIRTY-FIRST YEAR  
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June 27, 2022

## Uniform Telehealth Act

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# Uniform Telehealth Act

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# Uniform Telehealth Act

## Prefatory Note

In recent years, improvements in telecommunication technologies have transformed the delivery of health care, increasing access for those in underserved geographic areas of the country as well as others who face barriers in accessing services provided in person. Practitioners have increasingly turned to telehealth, the use of synchronous and asynchronous telecommunication technology to provide health care to a patient at a different physical location. As the provision of telehealth services has increased, states have adopted statutes that define telehealth and impose requirements with respect to its use. These statutes have evolved over time to address current conditions, needs, opportunities, and technological advances. The arrival of the Covid-19 pandemic greatly expanded patient demand for telehealth services, accelerating this evolution and providing real-world evidence on the effectiveness of telehealth services. To meet patient needs, many states chose to modify licensure and other requirements that served as barriers to the delivery of telehealth services. In the aftermath of the pandemic, many states are re-examining laws related to telehealth, often with an eye toward expanding access to care while maintaining protections for patients.

The Uniform Telehealth Act reflects this evolutionary trend, and the Uniform Law Commission hopes it will give states the clear guidance and framework they need to facilitate the delivery of telehealth services consistent with the standard of care, as well as open borders for practitioners to provide widespread assistance to patients in a more convenient and cost-effective manner.

The Uniform Telehealth Act has two broad goals. The first is to make clear that as a general matter, a practitioner who is licensed or is otherwise authorized to provide health care in a state in which a patient is located may provide care through telehealth, if doing so is consistent with the applicable professional practice standards and the practitioner's scope of practice as defined by the patient's state. The act takes an intentionally broad approach to the definition of "telecommunication technology," allowing the practitioner and patient to use the most accessible technology that supports the provision of health care that meets the standard of care applicable to in-person services. This flexibility enhances access by reducing practical barriers to receiving care.

The act emphasizes the parallels between the delivery of telehealth services and the delivery of traditional, in-person services. For example:

1. If state law prohibits the provision of a type of care, that prohibition will apply to both care provided in person and care provided through telehealth. The Uniform Telehealth Act does not supplant state statutes that impose requirements or limitations on the delivery of health care.

2. A professional practice standard that requires follow-up treatment would similarly apply regardless of whether the initial care is provided in person or via telehealth.

3. A physician required to obtain informed consent for in-person care must also obtain informed consent for comparable telehealth services.

4. A practitioner providing telehealth services to a patient located in the state must adhere

1 to the same privacy and confidentiality laws that would apply if the care were provided in person  
2 in the state.

3 5. A professional practice standard that requires that a physician maintain records  
4 documenting care applies regardless of whether the care is provided in person or via telehealth.  
5

6 As these examples illustrate, a board seeking to regulate the provision of care may do so  
7 by imposing requirements or adopting restrictions with respect to the nature of care provided,  
8 without regard to the modality through which it is delivered. A board may establish a general  
9 standard of care that applies to all health care, but under section 4(b) may not establish a  
10 different standard of care that applies only to telehealth. At the same time, the Uniform  
11 Telehealth Act acknowledges that there may be circumstances in which the provision of  
12 telehealth services is not permitted, even if equivalent in-person services are permitted. Sections  
13 3(a), 3(b), and 4(c) make clear that federal and state law may prohibit the provision of certain  
14 services via telehealth.  
15

16 The Uniform Telehealth Act's second goal is to establish a registration system for out-of-  
17 state practitioners. This act permits a practitioner licensed elsewhere to provide telehealth  
18 services to patients located in the state adopting the act. In many respects, the registration system  
19 the act creates resembles a licensure system. The act allows a board to decline to register a  
20 practitioner if it would decline to license the practitioner due to disciplinary action in another  
21 state. It ensures that a registered practitioner, like a licensed practitioner, is subject to  
22 disciplinary actions within the state. It also extends requirements for insurance coverage  
23 applicable to licensed practitioners to registered practitioners.  
24

25 While the act's registration system imposes some obligations on practitioners, its overall  
26 impact is to reduce the burden on practitioners that might otherwise be subject to differing  
27 licensure requirements in multiple states. Registered providers are only subject to licensure-  
28 related requirements in the state or states in which they hold licenses, not in states in which they  
29 are registered. By reducing the licensure-related barriers to providing care across state lines, a  
30 registration system may expand state residents' access to health care services.  
31

32 The Uniform Telehealth Act does not include provisions related to health insurance  
33 coverage or provider payment, instead leaving these policy choices to the states. Given the  
34 implications of coverage and payment policies for access to telehealth services, states may want  
35 to re-examine these provisions at the same time they adopt this act.



Section 6.

(8) “Registering board” means a board that registers out-of-state practitioners under Section 6.

(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 a technology that supports communication through electronic means. The term is not limited to a regulated technology or a 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 state should cite the statutes that provide for licensure or certification of the types of providers whose provision of telehealth services will be subject to this act.*

## Comments

1. Improvements in technology have greatly expanded the types of health care that can be delivered to patients at distant locations. As technology continues to evolve, it is important that regulatory structures encompass new technologies and the diverse forms of care that they can help deliver. For this reason, “health care” is defined broadly to include diverse activities practitioners undertake with the goal of improving health. Similarly, the definitions of “telehealth” and “telecommunication technology” do not restrict the forms of technology that practitioners may use to provide health care to patients at distant locations. For example, “telecommunication technology” includes both landline and cellular telephones, in addition to internet-based technology.

2. The definitions in this section apply only to the provisions of this [act], and the terms included may be defined differently elsewhere in state law. For example, states with statutes related to insurance coverage or payment policy for telehealth services may define telehealth differently for the purpose of coverage or payment requirements.

### **Section 3. 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, the applicable professional practice standards in this state, and the 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 that health care complies with the requirements, limitations, and prohibitions of that federal or state law.

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

### **Comment**

To provide telehealth services to a patient located in this state, an individual must be licensed, certified, or otherwise authorized by law to provide health care in this state. This section makes clear that an individual who meets this requirement may provide health care through telehealth, if doing so is consistent with applicable professional practice standards and the practitioner's scope of practice. However, state or federal law may limit or prohibit the provision of particular types of telehealth services. If state or federal law restricts the provision of a particular type of health care, these restrictions would apply to those seeking to deliver such services through telehealth, just as they would to those seeking to deliver such services in person. A state statute might also prohibit the delivery of services through telehealth. Such prohibitions would apply to a practitioner providing health care to patients located in the state, regardless of where the practitioner is located. If state regulations restrict the provision of care to an individual holding a particular type of license, then neither in-state nor out-of-state practitioners holding another type of license would be permitted to provide that care. In no case can an out-of-state practitioner use telehealth to provide services that a comparably credentialed in-state practitioner is prohibited from providing.

### **Section 4. Professional Practice Standard**

(a) A practitioner shall provide telehealth services to a patient located in this state in a manner consistent with the professional practice standards applicable to a practitioner who



1 provides comparable in-person health care in this state. Professional practice standards and law  
2 applicable to the provision of health care in this state, including standards and law relating to  
3 prescribing medication or treatment, identity verification, documentation, informed consent,  
4 confidentiality, privacy, and security, apply to the provision of telehealth services in this state.

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

## 8 **Comments**

9  
10 1. This section applies to all practitioners who provide telehealth services to patients located  
11 in this state, regardless of the location of the practitioner. A practitioner physically located  
12 outside this state who provides telehealth services to a patient in this state is subject to the same  
13 professional practice standards, limitations on prescribing, and limitations on scope of practice as  
14 a practitioner physically located in this state who holds a substantially similar license in this  
15 state. If a state limits the prescription of opioids, then the limit is equally applicable to  
16 practitioners providing care to patients located in the state, regardless of where the practitioners  
17 are located.

18  
19 2. Section 4(a) makes clear that the regulatory structure applicable to the delivery of in-  
20 person health care also applies to the delivery of telehealth services. Professional practice  
21 standards applicable to health care generally will also apply to health care delivered through  
22 electronic means. For example, a requirement that a physician obtain informed consent in an in-  
23 person care delivery setting would also apply in the context in telehealth. Similarly, expectations  
24 that health care providers verify an individual's identity should apply equally to in-person health  
25 care and telehealth services.

26  
27 3. The law applicable to health care provided in a state may include federal law, such as the  
28 Ryan Haight Online Pharmacy Consumer Protection Act, which currently prohibits practitioners  
29 from prescribing controlled substances via telehealth without first having conducted an in-person  
30 medical evaluation, except in limited circumstances.

31  
32 4. Section 4(b) reinforces section 4(a) by prohibiting boards from creating an independent  
33 standard applicable only to telehealth services. Because telehealth is a mechanism for delivering  
34 health care, practitioners are expected to ensure that any telehealth services they provide meet  
35 any standards of practice for health care in general. Unitary standards equally applicable to in-  
36 person and remote provision of care do not imply, however, that the process for delivering  
37 telehealth services will be identical to the process for delivering in-person health care. In some  
38 cases, practitioners will not be able to provide telehealth services because such services would  
39 not meet the standard of care. For example, if determining appropriateness of a medical

1 treatment requires obtaining specific information about the condition of an individual, a board  
2 could impose a rule requiring a practitioner to obtain that information before delivering the  
3 treatment. Such a rule would not establish a separate standard for telehealth but could have the  
4 effect of limiting the use of telehealth. If only some telecommunication technologies are capable  
5 of providing the required information, then a practitioner would only be able to use telehealth if  
6 they and their patients had access to the appropriate technologies. If the information could only  
7 be obtained through an in-person test or screening, then a practitioner would not be able to use  
8 telehealth services.

9  
10 5. A state may adopt statutes imposing a limit or placing a prohibition on the use of  
11 telehealth. Such statutory limits are contemplated by section 3(a) of this [act] and  
12 notwithstanding section 4(b), boards may adopt regulations implementing or interpreting such  
13 statutes to the extent permitted by state law.

#### 14 15 **Section 5. Out-of-State Practitioner**

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

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

21 (2) registers under Section 6 with the registering board responsible for licensing  
22 or certifying practitioners who provide the type of health care the out-of-state practitioner  
23 provides; or

24 (3) provides the telehealth services:

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

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

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

1 patient has a relationship last provided health care to the patient].

2 (b) A requirement for licensure or certification of an out-of-state practitioner who  
3 supervises an out-of-state practitioner providing telehealth services may be satisfied through  
4 registration under Section 6.

5 [(c) A requirement for licensure or certification of an out-of-state practitioner who  
6 controls or is otherwise associated with a provider of health care to a patient located in this state  
7 may be satisfied through registration under Section 6 if the entity does not provide in-person  
8 health care to a patient located in this state.]

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

13  
14 *A state that requires an entity that provides health care to be controlled by or otherwise*  
15 *associated with a licensed or certified practitioner may adopt subsection (c).*

## 16 17 **Comments**

18  
19 1. Under Section 5(a)(1), individuals who are licensed to provide health care in another state  
20 are authorized to provide telehealth services in this state if they are appropriately licensed or  
21 certified in this state or if they are otherwise authorized to provide health care in this state. Many  
22 states currently permit out-of-state practitioners to provide health care within the state, even if  
23 they do not hold a license in the state. For example, a state may exempt from licensure  
24 requirements students in training programs, certain practitioners providing care at the scene of an  
25 emergency, or practitioners providing services for individuals participating in athletic events,  
26 among others. Under certain circumstances, the Emergency Management Assistance Compact  
27 permits practitioners to provide services in a state without having obtained a license in that state.

28  
29 2. Under section 5(a)(2), out-of-state practitioners who do not hold a license in the state  
30 may register under Section 6. Registration under section 6 authorizes out-of-state practitioners to  
31 provide telehealth services to patients located in the state of registration, but does not authorize  
32 the provision of in-person health care in the state of registration.

33  
34 3. Under section 5(a)(3)(A), an out-of-state practitioner is authorized to consult with a  
35 practitioner who has established a practitioner-patient relationship within this state.

36  
37 4. Section 5(a)(3)(B) authorizes an out-of-state practitioner, such as an out-of-state  
38 practitioner associated with a Center of Excellence, to provide assessments, diagnoses, and

1 recommendations for treatment with respect to a patient who is seeking specialized care. The  
2 provision of specialty assessments, diagnoses, and recommendations for treatment using  
3 telehealth must be made in accordance with applicable professional practice standards and the  
4 law of this state, as required by Sections 3 and 4 of this Act. If the standard of care in this state  
5 requires an in-person examination for a specialty assessment, diagnosis, or recommendation for  
6 treatment, an out-of-state practitioner is not authorized to provide it via telehealth to a patient  
7 located in this state. Section 5(a)(3)(B) does not authorize an out-of-state practitioner to provide  
8 treatment via telehealth. To provide treatment via telehealth to a patient located in this state, an  
9 out-of-state practitioner would have to obtain a license in this state, register under Section 6, or  
10 be authorized to provide treatment under another provision of the law of this state.

11  
12 5. Section 5(a)(3)(C) permits an out-of-state practitioner to provide health care pursuant to a  
13 previously established practitioner-patient relationship. The relevant relationship could be  
14 between the out-of-state practitioner and the patient. Alternatively, the relationship could be  
15 between an associate of the out-of-state practitioner and the patient. This provision encompasses  
16 the common scenario where a patient who is traveling calls their primary care physician to  
17 receive care that the physician would have provided to the patient, if the patient had been at  
18 home at the time the need arose. It also permits the patient's primary care physician, another  
19 licensed member of the patient's care team, or any licensed individual that would have provided  
20 care within the patient's home state under an arrangement with the patient's care team, to  
21 provide the follow-up care. Out-of-state practitioners must be mindful, however, that under  
22 section 3(a), any requirements with respect to the delivery of health care within the state of the  
23 patient's location will apply, including scope of practice limitations and limitations on the  
24 prescription of controlled substances. In addition, under section 4(a), the standards of practice  
25 within this state will apply; such standards may have the effect of limiting the types of follow-up  
26 care an out-of-state practitioner may provide via telehealth.

27  
28 6. Some states require that particular types of practitioners be supervised when delivering  
29 specific forms of health care. If the state requires that a practitioner be supervised by an  
30 individual holding a license or certification within this state, Section (5)(b) permits the  
31 supervisor to meet this requirement for licensure through registration under Section 6.

32  
33 7. Some states have enacted corporate practice of medicine laws that require that entities  
34 providing health care within the state be controlled by individuals holding licenses within the  
35 state and/or have medical directors who are licensed within the state. Just as registration under  
36 section 6 would permit out-of-state practitioners to provide health care via telehealth, but not in-  
37 person health care within the state, section 5(c) permits registration under section 6 to meet any  
38 licensure requirements applicable to those holding the specified roles within the entity, but only  
39 if the health care the entity delivers within the state consists only of telehealth services.

## 40 41 **Section 6. Board Registration of Out-of-State Practitioner**

42 (a) A board established under [cite to relevant state statutes] shall register, for the purpose  
43 of providing telehealth services in this state, an out-of-state practitioner not licensed, certified, or

1 otherwise authorized to provide health care in this state, if the practitioner:

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

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

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

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

12 (5) never has been subject to a disciplinary investigation or action that the  
13 registering board determines would be a basis for denying a license or certification in this state;

14 (6) consents to personal jurisdiction in this state;

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

18 (8) has professional liability insurance that includes coverage for telehealth  
19 services provided to patients located in this state, in an amount equal to or greater than the  
20 requirement for a practitioner providing the same services in this state; and

21 (9) pays the registration fee under subsection (c).

22 (b) A registering board shall create the application for registration and form for  
23 identifying agents that section 6(a) requires.

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

(d) 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.

**Legislative Note:** In subsection (a), a state should specify the boards that will be required to register out-of-state practitioners under this section. In subsection (a)(7), a state should adopt the bracketed provision if it has law governing the appointment of an agent for service of process.

### Comment

Section 6 establishes a registration system for individuals who are licensed or certified to provide health care in another state. Under 6(a), states identify the boards that will be included in the registration system; these boards are then required to register out-of-state practitioners. The purpose of this registration is to allow these practitioners to provide telehealth services to patients located within the state, as authorized by section 5(a)(2). Under Section 6, boards are generally required to register out-of-state practitioners who submit a complete application, pay the appropriate fee, consent to personal jurisdiction, and hold any required amount of liability insurance. However, boards are not permitted to register an out-of-state practitioner whose license is inactive or restricted, who is subject to a pending investigation or disciplinary action, who has been subject to certain disciplinary actions within the preceding five years, or who has been disciplined for an action that would lead the board to deny an application for a license or certification.

### Section 7. 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;
- (3) has been the subject of disciplinary action by a board in a state, other than an action relating to a fee payment or continuing education requirement addressed to the satisfaction of the board that took the disciplinary action; or

(4) commits an act that is a ground for disciplinary action under the rules applicable to a practitioner licensed or certified to provide comparable health care in this state.

(b) A registering board may take disciplinary action against a registered practitioner 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 may include 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.

**Legislative Note:** *In subsection (c), a state should cite the statutes applicable to suspension or revocation of a license or certification of a practitioner.*

#### **Comment**

Section 7 extends a board's disciplinary authority with respect to licensed or certified practitioners to practitioners that it registers under Section 6.

### **Section 8. 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 registered practitioner's license or certification, or taken a disciplinary action against the registered practitioner;

(2) shall maintain professional liability insurance that includes coverage for telehealth services provided to patients located in this state in an amount equal to or greater than the requirement 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.

**Legislative Note:** *In paragraph (1), a state should specify the time required for notification of the registering board after having been notified that a board in another state has initiated an investigation, placed a restriction on the practitioner's license or certification, or taken a disciplinary action with respect to the practitioner.*

## **Section 9. 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) A civil action arising out of a registered practitioner's provision of a telehealth service to a patient located in this state may be brought in the patient's [county] of residence in this state or in another [county] authorized by law.

### **Comment**

Section 9(b) permits a patient to sue a registered practitioner in the patient's county of residence as well as "in another location authorized by law." This subsection makes clear that a venue provision in state law will apply to suits arising out of telehealth services provided to a patient located in the state, just as it would to services delivered in-person in the state.

## **[Section 10. 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.*

## **Section 11. 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 12. 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 13. 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 14. Effective Date**

This [act] takes effect . . .