Uniform Law Commission Drafting Committee on Telehealth
Background Memo for March 26, 2021 Meeting
March 19, 2021

At the Drafting Committee on Telehealth's initial meeting on February 19, 2021, the Committee considered three broad questions: how the uniform law should define "telehealth," the extent to which the uniform law should address practice standards, and the circumstances under which out-of-state providers should be permitted to deliver telehealth services inside the state. This document summarizes the general principles that began to emerge in Committee discussion of each question. It also includes an appendix with excerpts of some relevant language from existing statutes, regulations, and bills that speak to the issues the Committee discussed. The primary purpose of this document is to provide context and a reference source for our conversation on March 26, which will focus on the initial draft of sections of what will become a proposed model or uniform act on telehealth.

Question 1: How should the uniform law define telehealth?

Committee discussion on February 19 suggested that the model act should focus on "telehealth" and that this definition should encompass both asynchronous and synchronous telecommunications technologies. At this stage of the drafting process, this definition will be used in connection with provisions related to the delivery of telehealth services, not necessarily for provisions related to payment or insurance coverage.

Some existing telehealth definitions use the terms "asynchronous" and "synchronous" and also list examples of types of technology included within the scope of "telehealth." Committee participants noted that this increased specificity gives comfort to those uncertain about what might be included. However, several observers suggested that as people gain more experience with telehealth, listed examples become less important, and that as technology evolves, broader definitions become more important. One question raised about a broad definition was whether it would capture unregulated wellness services.

The Committee discussed whether "telehealth" should include audio-only technologies; such technologies have historically often been excluded, but more recently, these exclusions have been removed. The principle that seemed to emerge from Committee discussion was that audio-only technologies should be included within the definition of telehealth. That did not necessarily mean that audio-only technologies could always be used; whether such technology was appropriate in a given situation would be determined by practice standards, not by the definition of telehealth.

Historically, one reason to exclude audio-only technologies from the definition of telehealth was a concern about the quality of care provided. Another was that traditional telephone-based communications between a physician and patient would have been swept into the definition of telehealth, potentially subjecting health care providers to special rules regarding this form of interaction. However, if the model rule takes an approach that emphasizes a unitary standard of care, so that there are few special rules applicable to the delivery of telehealth services, there is less reason to be concerned about broad definitions of telehealth.

Overall, the Committee discussion suggested that the initial draft of the model statute should:

- Define the term "telehealth" broadly and reference telecommunications technologies

- Use the terms asynchronous and synchronous to make the breadth of the definition clear, but not use more specific examples
- Not include a provision excluding specific technologies

Question 2: To what extent should the uniform law address standards of practice?

The Committee seemed comfortable with the idea that in articulating any standards applicable to the delivery of telehealth, the uniform law could use the term "practitioner," because telehealth services are delivered by many types of regulated providers. The Committee broadly agreed that in delivering telehealth services, practitioners are subject to the same standards that govern the in-person delivery of care; there is no distinct "telehealth" standard of care. The general standard of care should be sufficient to protect patients against inappropriate uses of technology or other telehealth practices that might otherwise result in poor quality care.

If there is no separate standard of care, so that practitioners have the same responsibilities with respect to the delivery of telehealth services that they have with respect to in-person services, then there is a question of whether a model law needs to address the nature of telehealth practice standards, beyond noting the fact that the same standard applies. Most existing telehealth statutes do discuss the nature of practice standards, however.

Committee discussion pointed to a few types of provisions that might be helpful to include. One was a provision that makes clear that practitioner-patient relationships may be established via telehealth. While all states now recognize the ability to do so, participants emphasized the importance of statutory clarity on this point.

Second, several participants noted that it may be beneficial to prevent boards from restricting the delivery of services via telehealth.

Third, some current telehealth statutes reference informed consent and privacy and security. However, participants noted that obligations in these areas exist regardless of delivery modality. Rather than imposing telehealth-specific rules in these areas, the approach discussed was to emphasize that practitioners are required to follow applicable federal and state law in these areas. (The uniform law should not reference specific statutes such as HIPAA, as they will not always apply.) Many providers have questions about whether there are special rules in these areas, and so it may be beneficial to emphasize that general rules apply. It may be the case that practitioners choose to develop informed consent forms specific to telehealth services, particularly if they intend to limit the types of services they will provide, but this could be done via contract/self-regulation, rather than a regulatory requirement.

Fourth, multiple participants noted that while the same general standards should apply to telehealth as to in-person care, many states have adopted rules that limit prescribing of certain drugs via remote interactions. This suggests that it may be important to preserve some form of carveout in this area, despite the challenges inherent in developing a model rule when there is considerable variation across the states. It was suggested that more uniformity would be valuable, as providers working across state lines encounter different state restrictions. On the other hand, the Committee's conversation also pointed to the conclusion that it was important that any uniform requirement be nuanced and/or flexible. It is important to include provisions that will support greater access to drugs such as suboxone, while preventing illegal diversion of other drugs. Participants suggested examining emerging trends/best practices in this area.

Overall, the Committee discussion suggested that the initial draft of the model statute should:

- Make clear that practitioner-patient relationships can be established via telehealth.
- Prohibit boards that regulate health care practitioners from using their regulatory powers to establish a separate standard of care applicable to telehealth or restrict the form of technology used to deliver telehealth services.
- Make clear that when practitioners deliver telehealth services, they are required to adhere to federal and state law applicable to health services, including law in the areas of informed consent, privacy and security.
- Include a provision that contemplates a restriction on the prescription of controlled substances via telehealth.

Question 3: Under what circumstances should the uniform law permit out-of-state providers to deliver telehealth services to patients inside the state?

Committee participants generally agreed that it made sense to put in place a structure that would support interstate delivery of services. Practitioners can already engage in interstate delivery by obtaining multiple licenses; the question is the extent to which it would be desirable to adopt an alternative approach that would facilitate more interstate delivery.

It was suggested that patients will make complaints about physicians to state boards, which need to be able to take action in accordance with their own standards. For this reason, it is helpful to have a system by which practitioners working within the state identify themselves to the relevant regulatory entities. It was generally agreed that any registration system should be open to all types of practitioners recognized in the state. Enforcement actions against practitioners within the state require financial support, so it is helpful for the board to have access to fees from these providers. However, given that licensure fees have been cited as a barrier to telemedicine across state lines, it is important that these fees not be too high.

Multiple commentators emphasized the value of reciprocity; there was concern about the implications of adopting a system in which one state permits providers from neighboring states to practice within the state, while the state's own providers cannot work in other states. Reciprocity is already embedded in the Interstate Medical Licensure Compact, the Nurse Licensure Compact (which was often cited as a model), and other forms of interstate compacts; providers have been obtaining licenses under these compacts, and many states continue to support them. Committee participants' comments suggested that it would be important to integrate compacts into the uniform law.

Another question that was discussed was whether there should be circumstances when providers can deliver services within the state, without being subjected to sanction for unauthorized practice. The discussion identified two types of exception: One for provider-to-provider consultation, and one for followup care. The extent to which followup care should be permitted without licensure or registration was unclear and should be explored further.

Overall, the Committee discussion suggested that the initial draft of the model statute should:

- Make clear as a general matter that if the state in which a patient is located requires a practitioner to hold a license to deliver services, practitioners must either (a) obtain full licensure in the state; (b) receive authorization to practice by meeting the requirements

specified in a compact to which the state is a signatory; (c) register with the state. Practitioners should be permitted to practice within the scope of their license, certification, or authorization.

- Include a provision that makes clear that some forms of services (e.g., consultation) do not require state authorization to deliver telehealth services within the state.
- The registration system should apply to all practitioners and contemplate a fee, but the fee should be lower than that associated with full licensure.

APPENDIX I: DEFINITIONS OF TELEHEALTH

Arizona House Bill 2454 (Feb. 2021), amending Arizona Revised Statues, Section 36-3601(4)	"Telehealth" means (a) the interactive use of audio, video or other electronic media, including asynchronous store-and-forward technologies and remote patient monitoring technologies, for the practice of health care, assessment, diagnosis, consultation or treatment and the transfer of medical data. (b) includes the use of an audio-only telephone encounter between the patient or client and health care provider if an audio-visual telehealth encounter is not reasonably available due to the patient's preference, the patient's functional status, the patient's lack of technology or telecommunications infrastructure limits, as determined by the health care provider. (c) does not include the use of a fax machine, instant messages, voice mail or email.
Florida 456.47	"Telehealth" means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.
Indiana IC 25-1-9.5-6, as amended by SB 3 (2021)	(a) As used in this chapter, "telehealth" means the delivery of health care services using interactive electronic communications and information technology, in compliance with the federal Health Insurance Portability and Accountability Act (HIPAA), including: (1) secure videoconferencing; (2) store and forward technology; or (3) remote patient monitoring technology; between a provider in one (1) location and a patient in another location. (b) The term does not include the use of the following unless the practitioner has an established relationship with the patient: (1) Electronic mail. (2) An instant messaging conversation. (3) Facsimile. (4) Internet questionnaire. (5) Internet consultation….
Maryland Subtitle 10, Section 1-1001(E)	(1) "Telehealth" means a mode of delivering health care services through the use of telecommunications technologies by a health care practitioner to a patient at a different physical location than the health care practitioner. (2) "Telehealth" includes synchronous and asynchronous interactions. (3) "Telehealth" does not include the provision of health care services solely through audio-only calls, e-mail messages, or facsimile transmissions.
American Telemedicine Association	"Telehealth" means a mode of delivering health care services through the use of telecommunications technologies, including but not limited to asynchronous and synchronous technology, and remote patient monitoring technology, by a healthcare practitioner to a patient or a

	practitioner at a different physical location than the healthcare practitioner.

APPENDIX II: PROVISIONS RELATED TO PRACTICE STANDARDS

Establishing a Relationship

Idaho, Title 54, Chapter 57: 54-5705	(1) If a provider offering telehealth services does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of a two-way audio or audio-visual interaction; provided however, that the applicable Idaho community standard of care must be satisfied.
Maryland Health Occupations Code, §1-1002	A health care practitioner may establish a practitioner-patient relationship through either aa synchronous telehealth interaction or an asynchronous telehealth interaction, if the health care practitioner: (1) Verifies the identity of the patient receiving health care services through telehealth; (2) Discloses to the patient the health care practitioner's name, contact information, and the type of health occupation license held by the health care practitioner; and (3) Obtains oral or written consent from the patient or from patient's parent or guardian if State law requires the consent of a parent or guardian.
Maryland Health Occupations Code, §1-1006	(b) Regulations adopted by a health occupations board under subsection (a) of this section: (2) Shall allow for the establishment of a practitioner–patient relationship through a synchronous telehealth interaction or an asynchronous telehealth interaction provided by a health care practitioner who is complying with the health care practitioner's standard of care.

Standard of care generally

FL 2019 Florida Statutes 456.47	(2) Practice standards. – (a) A telehealth provider has the duty to practice in a manner consistent with his or her scope of practice and the prevailing professional standard of practice for a health care professional who provides in-person health care services to patients in this state. (b) A telehealth provider may use telehealth to perform a patient evaluation. If a telehealth provider conducts a patient evaluation sufficient to diagnose and treat the patient, the telehealth provider is not required to research a patient's medical history or conduct a physical examination of the patient before using telehealth to provide health care services to the patient…. (3) A telehealth provider shall document in the patient's medical record the health care services rendered using telehealth according to the same standard as used for in-person services. Medical records, including video, audio, electronic, or other records generated as a

	result of providing such services, are confidential pursuant to ss. 395.3025(4) and 456.057.
Indiana IC 25-1-9.5-6, as amended by SB 3 (2021)	(a) A practitioner who: (1) provides health care services through telehealth; or (2) directs an employee of the practitioner to perform a health care service listed in section 2.5(2), 2.5(3), or 2.5(4) of this chapter; shall be held to the same standards of appropriate practice as those standards for health care services provided at an in-person setting.
Maryland Health Occupations Code, §1-1003	(a) A health care practitioner providing telehealth services shall: (1) Be held to the same standards of practice that are applicable to in–person health care settings; and (2) If clinically appropriate for the patient, provide or refer a patient to in–person health care services or another type of telehealth service. (b) (1) A health care practitioner shall perform a clinical evaluation that is appropriate for the patient and the condition with which the patient presents before providing treatment or issuing a prescription through telehealth. (2) A health care practitioner may use a synchronous telehealth interaction or an asynchronous telehealth interaction to perform the clinical evaluation required under paragraph (1) of this subsection.
Maryland Health Occupations Code, §1-1004	(a) A health care practitioner shall document in a patient's medical record the health care services provided through telehealth to the patient according to the same documentation standards used for in–person health care services. (b) All laws regarding the confidentiality of health information and a patient's right to the patient's health information apply to telehealth interactions in the same manner as the laws apply to in–person health care interactions.
South Dakota 34-52-3, as amended by SB 96 (2021)	Any health care professional who utilizes telehealth shall ensure that a proper health provider-patient relationship is established and includes: (1) Verifying and authenticating the location and, to the extent reasonable, identifying the requesting patient; (2) Disclosing and validating the health care professional's identity and applicable credentials, as appropriate; (3) Obtaining appropriate consent for treatment from a requesting patient after disclosure regarding the delivery models and treatment methods or limitations; (4) Establishing a diagnosis through the use of acceptable medical practices, including patient history, mental status examination, physical examination, and appropriate diagnostic and laboratory testing; (5) Discussing with the patient the diagnosis and its evidentiary basis and the risks and benefits of various treatment options; (6) Ensuring appropriate follow-up care for the patient; (7) Providing a visit summary to the patient or consult note; and (8) Utilizing technology sufficient to evaluate or diagnose and appropriately treat a patient for the condition as presented in accordance with the applicable standard of care.

	Exceptions to the requirements of this section include on-call, cross coverage situations, and consultation with another health care professional who has an ongoing health care provider relationship with the patient and agrees to supervise the patient's care and emergency treatment.
Texas Occupations Code, Title 3, Subtitle A, § 111.007	(a) A health professional providing a health care service or procedure as a telemedicine medical service or a telehealth service is subject to the standard of care that would apply to the provision of the same health care service or procedure in an in-person setting.

Restricting the Actions of Practitioner Boards

Arizona HB2454 (2021), 36-3602	A health care provider regulatory board or agency may not enforce any statute, rule or policy that would require a health care provider who is licensed by that board or agency and who is authorized to write prescriptions to require an in-person examination of the patient before issuing a prescription except as specifically prescribed by federal law. A physical or mental health status examination may be conducted during a telehealth encounter.
Maryland Health Occupations Code, §1-1006	(b) Regulations adopted by a health occupations board under subsection (a) of this section: (1) May not establish a separate standard of care for telehealth; and
Texas Occupations Code, Title 3, Subtitle A, § 111.007	(b) An agency with regulatory authority over a health professional may not adopt rules pertaining to telemedicine medical services or telehealth services that would impose a higher standard of care than the standard described in Subsection (a).

Restricting the Prescribing of Controlled Substances via Telehealth

The federal Ryan Haight Online Pharmacy Consumer Protection Act of 2008 makes it illegal to "deliver, distribute, or dispense a controlled substance by means of the internet" except as authorized. Among other things, it requires an in-person examination.

FL 2019 Florida Statutes 456.47	(c) A telehealth provider may not use telehealth to prescribe a controlled substance unless the controlled substance is prescribed for the following: 1. The treatment of a psychiatric disorder; 2. Inpatient treatment at a hospital licensed under chapter 395; 3. The treatment of a patient receiving hospice services as defined in s. **400.601**; or 4. The treatment of a resident of a nursing home facility as defined in s. **400.021**.

Maryland Health Occupations Code, §1-1003	(c) (1) A health care practitioner may not prescribe an opiate described in the list of Schedule II substances under § 5–403 of the Criminal Law Article for the treatment of pain through telehealth, unless: (i) The individual receiving the prescription is a patient in a health care facility, as defined in § 19–114 of the Health – General Article; or (ii) The Governor has declared a state of emergency due to a catastrophic health emergency. (2) Subject to paragraph (1) of this subsection, a health care practitioner who through telehealth prescribes a controlled dangerous substance, as defined in § 5–101 of the Criminal Law Article, is subject to any applicable regulation, limitation, and prohibition in federal and State law relating to the prescription of controlled dangerous substances.
Texas Admin Code 174.5-d	(d) Any prescription drug orders issued as the result of a telemedicine medical service, are subject to all regulations, limitations, and prohibitions set out in the federal and Texas Controlled Substances Act, Texas Dangerous Drug Act and any other applicable federal and state law. . . (1) Treatment for Chronic Pain . . . (A) Treatment of chronic pain with scheduled drugs through use of telemedicine medical services is prohibited, unless otherwise allowed under federal and state law. (B) Treatment of acute pain with scheduled drugs through use of telemedicine medical services is allowed, unless otherwise prohibited under federal and state law. *Emergency modification:* (A) Treatment of chronic pain with scheduled drugs through use of telemedicine medical services is prohibited, unless: (i) a patient is an established chronic pain patient of the physician and is seeking telephone refill of an existing prescription, and the physician determines that such telemedicine treatment is needed due to the COVID-19 pandemic; or (ii) the treatment is otherwise allowed under federal and state law….

APPENDIX III: PROVISIONS RELATED TO REGISTRATION AND RECOGNITION OF COMPACTS

References to compacts

Florida, 2020 Florida Statutes 456.47	(b) "Telehealth provider" means any individual who provides health care and related services using telehealth and who is licensed or certified under s. 393.17; part III of chapter 401; chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part III, part IV, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part I or part II of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491; who is licensed under a multistate health care licensure compact of which Florida is a member state; or who is registered under and complies with subsection (4).
Maryland Health Occupations Code, §1-1005	A health care practitioner providing health care services through telehealth must be licensed, certified, or otherwise authorized by law to provide health care services in the State if the health care services are being provided to a patient located in the State.

References to registration systems or other recognition

Arizona HB2454 (2021), adding 36-3606.	A. A health care provider who is not licensed in this state may provide telehealth services to a person located in this state if the health care provider complies with all of the following: 1. Registers with this state's applicable health care provider regulatory board or agency that licenses comparable health care providers in this state on an application prescribed by the board or agency that contains all of the following: (a) the health care provider's name…. (d) evidence of professional liability insurance coverage. (e) designation of a duly appointed statutory agent for service of process in this state. 2. Pays the registration fee as determined by the applicable health care provider regulatory board or agency. 3. Holds a current, valid and unrestricted license to practice in another state that is substantially similar to a license issued in this state to a comparable health care provider and is not subject to any past or pending disciplinary proceedings in any jurisdiction. . . .
Florida, 2020 Florida Statutes 456.47	(4) Registration of out-of-state telehealth providers (a) A health care professional not licensed in this state may provide health care services to a patient located in this state using telehealth if the health care professional registers with the applicable board, or the department if there is no board, and provides health care services within the applicable scope of practice established by Florida law or rule. (b) The board, or the department if there is no board, shall register a health care professional not licensed in this state as a telehealth provider if the health care professional:

	1. Completes an application in the format prescribed by the department; 2. Is licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued to a Florida-licensed provider specified in paragraph (1)(b); 3. Has not been the subject of disciplinary action relating to his or her license during the 5-year period immediately prior to the submission of the application; 4. Designates a duly appointed registered agent for service of process in this state on a form prescribed by the department; and 5. Demonstrates to the board, or the department if there is no board, that he or she is in compliance with paragraph (e). The department shall use the National Practitioner Data Bank to verify the information submitted under this paragraph, as applicable. (d) A health care professional may not register under this subsection if his or her license to provide health care services is subject to a pending disciplinary investigation or action, or has been revoked in any state or jurisdiction. A health care professional registered under this subsection must notify the appropriate board, or the department if there is no board, of restrictions placed on his or her license to practice, or any disciplinary action taken or pending against him or her, in any state or jurisdiction. The notification must be provided within 5 business days after the restriction is placed or disciplinary action is initiated or taken. (e) A provider registered under this subsection shall maintain professional liability coverage or financial responsibility, that includes coverage or financial responsibility for telehealth services provided to patients not located in the provider's home state, in an amount equal to or greater than the requirements for a licensed practitioner under s. **456.048**, s. **458.320**, or s. **459.0085**, as applicable. (f) A health care professional registered under this subsection may not open an office in this state and may not provide in-person health care services to patients located in this state. (g) A pharmacist registered under this subsection may only use a pharmacy permitted under chapter 465, a nonresident pharmacy registered under s. **465.0156**, or a nonresident pharmacy or outsourcing facility holding an active permit pursuant to s. **465.0158** to dispense medicinal drugs to patients located in this state. (h) The department shall publish on its website a list of all registrants and include, to the extent applicable, each registrant's: 1. Name. 2. Health care occupation. 3. Completed health care training and education, including completion dates and any certificates or degrees obtained. 4. Out-of-state health care license with the license number. 5. Florida telehealth provider registration number. 6. Specialty. 7. Board certification.

	8. Five-year disciplinary history, including sanctions and board actions. 9. Medical malpractice insurance provider and policy limits, including whether the policy covers claims that arise in this state. 10. The name and address of the registered agent designated for service of process in this state. (i) The board, or the department if there is no board, may take disciplinary action against an out-of-state telehealth provider registered under this subsection if the registrant: 1. Fails to notify the applicable board, or the department if there is no board, of any adverse actions taken against his or her license as required under paragraph (d). 2. Has restrictions placed on or disciplinary action taken against his or her license in any state or jurisdiction. 3. Violates any of the requirements of this section. 4. Commits any act that constitutes grounds for disciplinary action under s. **456.072**(1) or the applicable practice act for Florida-licensed providers. Disciplinary action taken by a board, or the department if there is no board, under this paragraph may include suspension or revocation of the provider's registration or the issuance of a reprimand or letter of concern. A suspension may be accompanied by a corrective action plan as determined by the board, or the department if there is no board, the completion of which may lead to the suspended registration being reinstated according to rules adopted by the board, or the department if there is no board. (5) VENUE.—For the purposes of this section, any act that constitutes the delivery of health care services is deemed to occur at the place where the patient is located at the time the act is performed or in the patient's county of residence. Venue for a civil or administrative action initiated by the department, the appropriate board, or a patient who receives telehealth services from an out-of-state telehealth provider may be located in the patient's county of residence or in Leon County. (6) EXEMPTIONS.—A health care professional who is not licensed to provide health care services in this state but who holds an active license to provide health care services in another state or jurisdiction, and who provides health care services using telehealth to a patient located in this state, is not subject to the registration requirement under this section if the services are provided: (a) In response to an emergency medical condition as defined in s. **395.002**; or (b) In consultation with a health care professional licensed in this state who has ultimate authority over the diagnosis and care of the patient. (7) RULEMAKING.—The applicable board, or the department if there is no board, may adopt rules to administer this section. History.—s. 1, ch. 2019-137; s. 60, ch. 2020-156.

OR Rev Stat § 677.139	(1) Upon application, the Oregon Medical Board may issue to an out-of-state physician a license for the practice of medicine across state lines if the physician holds a full, unrestricted license to practice medicine in any other state of the United States, has not been the recipient of a professional sanction by any other state of the United States and otherwise meets the standards for Oregon licensure under this chapter. (2) In the event that an out-of-state physician has been the recipient of a professional sanction by any other state of the United States, the board may issue a license for the practice of medicine across state lines if the board finds that the sanction does not indicate that the physician is a potential threat to the public interest, health, welfare and safety. (3) A physician shall make the application on a form provided by the board, accompanied by nonrefundable fees for the application and the license in amounts determined by rule of the board. The board shall adopt necessary and proper rules to govern the renewal of licenses issued under this section. . . . . (5) A license for the practice of medicine across state lines does not permit a physician to practice medicine in this state except when engaging in the practice of medicine across state lines. …
Texas SB No. 992 (2021)	(a) Notwithstanding any other law, a health professional located outside of this state who holds an active an unencumbered license issued by another state may provide to a patient located in this state a telehealth service if the health professional is authorized to provide the service by the state in which the health professional is licensed.
West Virginia HB 2004 (2021), amending 30-1-25 of the Code of West Virginia	(b) Unless otherwise provided for by statute or legislative rule, a health care board, referred to in this chapter, shall propose a rule for legislative approval in accordance with the provisions of §29A-3-1 *et seq.* to regulate telehealth practice by a telehealth practitioner. The proposed rule shall consist of the following: (1) The practice of the health care service occurs where the patient is located at the time the telehealth technologies are used; (2) The health care practitioner who practices telehealth shall be licensed in the state in which he or she is located and registered with the appropriate board in West Virginia; (3) When the health care practitioner patient relationship is established; (4) The standard of care; (5) A prohibition of prescribing schedule II drugs, unless authorized by another section; and (6) Implement the provisions of this section while ensuring competency, protecting the citizens of this state from harm, and addressing issues specific to each profession.

Exceptions to licensure and/or registration requirements

Florida SB 864 (2021), amending Florida Statutes 456.47	(6) EXEMPTIONS – A health care professional who is not licensed to provide health care services in this state but who holds an active license to provide health care services in another state or jurisdiction, and who provides health care services using telehealth to a patient located in this state, is not subject to the registration requirement under this section if the services are provided: (a) In response to an emergency medical condition as defined in s. 395.002; or (b) In consultation with a health care professional licensed in this state.
Illinois 225 Ill. Comp. Stat. Ann. 60/49.5(c)	(c) For purposes of this Act, "telemedicine" means the performance of any of the activities listed in Section 49, including, but not limited to, rendering written or oral opinions concerning diagnosis or treatment of a patient in Illinois by a person in a different location than the patient as a result of transmission of individual patient data by telephonic, electronic, or other means of communication. "Telemedicine" does not include the following: (1) periodic consultations between a person licensed under this Act and a person outside the State of Illinois; (2) a second opinion provided to a person licensed under this Act; (3) diagnosis or treatment services provided to a patient in Illinois following care or treatment originally provided to the patient in the state in which the provider is licensed to practice medicine; and (4) health care services provided to an existing patient while the person licensed under this Act or patient is traveling.
Michigan 1978 PA 368, § 16171, and MI HB 4355 (adding (k))	Under the circumstances and subject to the limitations stated in each case, the following individuals are not required to have a license issued under this article for practice of a health profession in this state: (e) An individual who resides in another state or country and is authorized to practice a health profession in that state or country who, in an exceptional circumstance, is called in for consultation or treatment by a health professional int this state. . . . (h) An individual who resides adjacent to the land border between this state and an adjoining state and is authorized under the laws of that state to practice a health profession and whose practice may extend into this state, but who does not maintain an office or designate a place to meet patients or receive calls in this state. (k) An individual who is authorized to practice a health profession in another state and who, while located in the state in which he or she is authorized to practice the health profession, provides a health service to a patient in this state through telehealth as that term is defined in section 16283, if both of the following are met: (i) The individual receives consent for the health service in the same manner as provided in section 16284. (ii) The individual provides only those health services he or she would be permitted to provide if he or she were authorized under this article to engage in that health profession in this state.
Ohio Rev. Code Ann. § 4731.36(A)(4)	(4) A physician or surgeon in another state or territory who is a legal practitioner of medicine or surgery therein and provided services to a patient in that state or territory, when providing, not later than one year after the last date services were

	provided in another state or territory, follow-up services in person or through the use of any communication, including oral, written, or electronic communication, in this state to the patient for the same condition;
Washington RCW 18.71.030	… nor shall anything in this chapter be construed to prohibit (1) The furnishing of medical assistance in cases of emergency requiring immediate attention; . . . (6) The practice of medicine by any practitioner licensed by another state or territory in which he or she resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state; *Note: In a guidance document, the Dept of Health Medical Quality Assurance Commission suggests that this provision permits provision of care across state license when "the non-Washington-licensed practitioner has an established patient-practitioner relationship with the patient and provides follow-up care to treatment previously performed in the practitioner's state of licensure" and "the continuous or follow-up care is infrequent or episodic."*