

Uniform Telehealth Act*

Drafted by the

Uniform Law Commission

and by it

Approved and Recommended for Enactment
in All the States

at its

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Without Prefatory Note and Comments



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**The following text is subject to revision by the Committee on Style of the National Conference of Commissioners on Uniform State Laws.*

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 an individual who provides health care.

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

(3) “Health care” means care, treatment, a service, or a 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 practice requirement imposed by a board, a standard of care, and a standard of professional ethics.

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

(8) “Registering board” means a board in 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 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.*

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, 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 law or law of this state.

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

Section 5. Professional Practice Standard

(a) A practitioner shall provide telehealth services to a patient located in this state 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 care, including follow-up care, under the authorization of subsection (a)(3)(C) may adopt the bracketed provision. The state should specify the length of time for which the authorization is granted.*

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

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 grounds 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 actions 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 equal to or greater than the requirement for a practitioner providing the same services in this state; and

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

(b) A board of this state shall 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 the application for registration and form for identifying agents that section 7(a) requires.

(d) 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.

(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 regarding an application for licensure or certification by an out-of-state practitioner.

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.*

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 took the disciplinary action.

(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.*

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 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 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) A patient [or a patient's][personal representative,][conservator,][guardian,][person entitled to bring a claim under [cite state's wrongful death statute]] may bring a civil action arising out of a practitioner's provision of a telehealth service to the patient in the patient's [county] of residence in this state or in another [county] authorized by law.

[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.*

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 . . .