
PRELIMINARY DRAFT
No. 3220

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2021 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 12-15-5-11; IC 25-1-9.5; IC 27-8-34-6;
IC 27-13-7-22.

Synopsis: Telemedicine. Prohibits the Medicaid program from specifying originating sites and distant sites for purposes of Medicaid reimbursement and voids administrative rules with these requirements. Specifies certain activities that are considered to be health care services for purposes of the telemedicine laws. Expands the application of the telemedicine statute to additional licensed practitioners instead of applying only to prescribers. Amends the definition of "telemedicine". Requires that the medical records under telemedicine be created and maintained under the same standards of appropriate practice for medical records for patients in an in-person setting. Specifies that a patient waives confidentiality of medical information concerning individuals in the vicinity when the patient is using telemedicine. Prohibits certain insurance policies and individual and group contracts from mandating the use of certain technology applications in the provision of telemedicine services.

Effective: July 1, 2021.



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

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

1 SECTION 1. IC 12-15-5-11, AS AMENDED BY P.L.150-2017,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]: Sec. 11. (a) As used in this section, "telehealth
4 services" means the use of telecommunications and information
5 technology to provide access to health assessment, diagnosis,
6 intervention, consultation, supervision, and information across a
7 distance.

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

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

12 (d) The office shall reimburse the following Medicaid providers for
13 medically necessary telemedicine services:

14 (1) A federally qualified health center (as defined in 42 U.S.C.
15 1396d(l)(2)(B)).

16 (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

17 (3) A community mental health center certified under
18 IC 12-21-2-3(5)(C).

19 (4) A critical access hospital that meets the criteria under 42 CFR
20 485.601 et seq.

21 (5) A provider, as determined by the office to be eligible,
22 providing a covered telemedicine service.

23 (e) The office may not impose any distance restrictions on providers
24 of telehealth services or telemedicine services. Before December 31,
25 2017, the office shall do the following:

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

30 (2) Issue a notice of intent to adopt a rule to amend any
31 administrative rules that include distance restrictions for the



- 1 provision of telehealth services or telemedicine services.
- 2 **(f) Subject to federal law, the office may not impose any**
- 3 **requirements concerning the originating site or distant site in**
- 4 **which a telemedicine service is provided to a Medicaid recipient.**
- 5 **405 IAC 5-38 is void effective July 1, 2021.**
- 6 **(g) A Medicaid recipient waives confidentiality of any medical**
- 7 **information discussed by the health care provider that is:**
- 8 **(1) provided during a telemedicine visit; and**
- 9 **(2) heard by another individual in the vicinity of the Medicaid**
- 10 **recipient during a health care service or consultation.**
- 11 ~~(f)~~ **(h) The office shall implement any part of this section that is**
- 12 **approved by the United States Department of Health and Human**
- 13 **Services.**
- 14 ~~(g)~~ **(i) The office may adopt rules under IC 4-22-2 necessary to**
- 15 **implement and administer this section.**
- 16 SECTION 2. IC 25-1-9.5-2, AS AMENDED BY P.L.150-2017,
- 17 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 18 JULY 1, 2021]: Sec. 2. As used in this chapter, "distant site" means a
- 19 site at which a ~~prescriber~~ **practitioner** is located while providing
- 20 health care services through telemedicine.
- 21 SECTION 3. IC 25-1-9.5-2.5 IS ADDED TO THE INDIANA
- 22 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 23 [EFFECTIVE JULY 1, 2021]: **Sec. 2.5. As used in this chapter,**
- 24 **"health care services" includes the following:**
- 25 **(1) Assessment, diagnosis, evaluation, consultation, treatment,**
- 26 **and monitoring of a patient.**
- 27 **(2) Transfer of medical data.**
- 28 **(3) Patient health related education.**
- 29 **(4) Public health services and health administration.**
- 30 SECTION 4. IC 25-1-9.5-3.5 IS ADDED TO THE INDIANA
- 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 32 [EFFECTIVE JULY 1, 2021]: **Sec. 3.5. As used in this chapter,**
- 33 **"practitioner" means an individual who holds:**
- 34 **(1) an unlimited license, certificate, or registration;**
- 35 **(2) a limited or probationary license, certificate, or**
- 36 **registration;**
- 37 **(3) a temporary license, certificate, registration, or permit;**
- 38 **(4) an intern permit; or**
- 39 **(5) a provisional license;**
- 40 **issued by the board regulating the profession in question, including**
- 41 **a certificate of registration issued under IC 25-20, and who**
- 42 **provides health care services under this chapter that are within the**
- 43 **individual's scope of practice.**
- 44 SECTION 5. IC 25-1-9.5-5, AS AMENDED BY P.L.150-2017,
- 45 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 46 JULY 1, 2021]: Sec. 5. As used in this chapter, "store and forward"



1 means the transmission of a patient's medical information from an
 2 originating site to the ~~prescriber~~ **practitioner** at a distant site without
 3 the patient being present.

4 SECTION 6. IC 25-1-9.5-6, AS ADDED BY P.L.78-2016,
 5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2021]: Sec. 6. ~~(a)~~ As used in this chapter, "telemedicine"
 7 means the delivery of health care services using **interactive** electronic
 8 communications and information technology, including:

- 9 (1) secure videoconferencing;
- 10 (2) ~~interactive audio-using~~ store and forward technology; or
- 11 (3) remote patient monitoring technology;

12 between a provider in one (1) location and a patient in another location.

13 ~~(b) The term does not include the use of the following:~~

- 14 ~~(1) Audio-only communication.~~
- 15 ~~(2) A telephone call.~~
- 16 ~~(3) Electronic mail.~~
- 17 ~~(4) An instant messaging conversation.~~
- 18 ~~(5) Facsimile.~~
- 19 ~~(6) Internet questionnaire.~~
- 20 ~~(7) Telephone consultation.~~
- 21 ~~(8) Internet consultation.~~

22 SECTION 7. IC 25-1-9.5-7, AS AMENDED BY P.L.129-2018,
 23 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2021]: Sec. 7. (a) A **prescriber practitioner** who provides
 25 health care services through telemedicine shall be held to the same
 26 standards of appropriate practice as those standards for health care
 27 services provided at an in-person setting.

28 (b) A **prescriber practitioner** may not use telemedicine, including
 29 **a prescriber** issuing a prescription, for an individual who is located in
 30 Indiana unless a provider-patient relationship between the **prescriber**
 31 **practitioner** and the individual has been established. A **prescriber**
 32 **practitioner** who uses telemedicine shall, if such action would
 33 otherwise be required in the provision of the same health care services
 34 in a manner other than telemedicine, ensure that a proper
 35 provider-patient relationship is established. The provider-patient
 36 relationship by a **prescriber practitioner** who uses telemedicine must
 37 at a minimum include the following:

- 38 (1) Obtain the patient's name and contact information and:
 - 39 (A) a verbal statement or other data from the patient
 - 40 identifying the patient's location; and
 - 41 (B) to the extent reasonably possible, the identity of the
 - 42 requesting patient.
- 43 (2) Disclose the **prescriber's practitioner's** name and disclose
 44 ~~whether the prescriber is a physician; physician assistant;~~
 45 ~~advanced practice registered nurse; optometrist; or podiatrist. the~~
 46 **practitioner's licensure, certification, or registration.**



- 1 (3) Obtain informed consent from the patient.
 2 (4) Obtain the patient's medical history and other information
 3 necessary to establish a diagnosis.
 4 (5) Discuss with the patient the:
 5 (A) diagnosis;
 6 (B) evidence for the diagnosis; and
 7 (C) risks and benefits of various treatment options, including
 8 when it is advisable to seek in-person care.
 9 (6) Create and maintain a medical record for the patient. ~~and~~ **If**
 10 **a prescription is issued for the patient, and** subject to the
 11 consent of the patient, **the prescriber shall** notify the patient's
 12 primary care provider of any prescriptions the prescriber has
 13 issued for the patient if the primary care provider's contact
 14 information is provided by the patient. The requirements in this
 15 subdivision do not apply when any of the following are met:
 16 (A) The ~~prescriber~~ **practitioner** is using an electronic health
 17 record system that the patient's primary care provider is
 18 authorized to access.
 19 (B) The ~~prescriber~~ **practitioner** has established an ongoing
 20 provider-patient relationship with the patient by providing care
 21 to the patient at least two (2) consecutive times through the use
 22 of telemedicine services. If the conditions of this clause are
 23 met, the ~~prescriber~~ **practitioner** shall maintain a medical
 24 record for the patient and shall notify the patient's primary care
 25 provider of any issued prescriptions.
 26 (7) Issue proper instructions for appropriate follow-up care.
 27 (8) Provide a telemedicine visit summary to the patient, including
 28 information that indicates any prescription that is being
 29 prescribed.
 30 **(c) The medical records under subsection (b)(6) must be created**
 31 **and maintained by the practitioner under the same standards of**
 32 **appropriate practice for medical records for patients in an**
 33 **in-person setting.**
 34 **(d) A patient waives confidentiality of any medical information**
 35 **discussed by the practitioner that is:**
 36 **(1) provided during a telemedicine visit; and**
 37 **(2) heard by another individual in the vicinity of the patient**
 38 **during a health care service or consultation.**
 39 SECTION 8. IC 25-1-9.5-9, AS AMENDED BY P.L.150-2017,
 40 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2021]: Sec. 9. (a) A ~~prescriber~~ **practitioner** who is physically
 42 located outside Indiana is engaged in the provision of health care
 43 services in Indiana when the ~~prescriber~~ **practitioner:**
 44 (1) establishes a provider-patient relationship under this chapter
 45 with; or
 46 (2) determines whether to issue a prescription under this chapter



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

13 (1) the jurisdiction of the courts of law of Indiana; and
 14 (2) Indiana substantive and procedural laws;
 15 concerning any claim asserted against the **prescriber, practitioner,** the
 16 **prescriber's practitioner's** employer, or the **prescriber's practitioner's**
 17 contractor arising from the provision of health care services under this
 18 chapter to an individual who is located in Indiana at the time the health
 19 care services were provided. The filing of the certification under this
 20 subsection shall constitute a voluntary waiver by the **prescriber,**
 21 **practitioner,** the **prescriber's practitioner's** employer, or the
 22 **prescriber's practitioner's** contractor of any respective right to avail
 23 themselves of the jurisdiction or laws other than those specified in this
 24 subsection concerning the claim. However, a **prescriber practitioner**
 25 that practices predominately in Indiana is not required to file the
 26 certification required by this subsection.

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

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

33 SECTION 9. IC 25-1-9.5-10, AS AMENDED BY P.L.150-2017,
 34 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2021]: Sec. 10. (a) A **prescriber practitioner** who violates this
 36 chapter is subject to disciplinary action under IC 25-1-9.

37 (b) A **prescriber's practitioner's** employer or a **prescriber's**
 38 **practitioner's** contractor that violates this section commits a Class B
 39 infraction for each act in which a certification is not filed as required
 40 by section 9 of this chapter.

41 SECTION 10. IC 27-8-34-6, AS ADDED BY P.L.185-2015,
 42 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 43 JULY 1, 2021]: Sec. 6. (a) A policy must provide coverage for
 44 telemedicine services in accordance with the same clinical criteria as
 45 the policy provides coverage for the same health care services
 46 delivered in person.



1 (b) Coverage for telemedicine services required by subsection (a)
 2 may not be subject to a dollar limit, deductible, or coinsurance
 3 requirement that is less favorable to a covered individual than the
 4 dollar limit, deductible, or coinsurance requirement that applies to the
 5 same health care services delivered to a covered individual in person.

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

9 (d) A separate consent for telemedicine services may not be
 10 required.

11 **(e) A policy may not require that telemedicine services be**
 12 **provided using a specific technology application.**

13 SECTION 11. IC 27-13-7-22, AS ADDED BY P.L.185-2015,
 14 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2021]: Sec. 22. (a) An individual contract or a group contract
 16 must provide coverage for telemedicine services in accordance with the
 17 same clinical criteria as the individual contract or the group contract
 18 provides coverage for the same health care services delivered to an
 19 enrollee in person.

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

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

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

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

33 (2) Require the use of telemedicine services when the treating
 34 provider has determined that telemedicine services are
 35 inappropriate.

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

40 (e) A separate consent for telemedicine services may not be
 41 required.

42 **(f) An individual contract or group contract may not require**
 43 **that telemedicine services be provided using a specific technology**
 44 **application.**

