

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2024

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Originating in the Committee on Health and Human
Resources; Reported on February 25, 2021]

1 A BILL to repeal §30-3-13a and §30-14-12d of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §30-1-26 of said code; all relating to telehealth services; defining
3 terms; establishing a registration; permitting health care practitioners licensed in other
4 states, in good standing, to practice in West Virginia using telehealth services; providing
5 emergency rulemaking authority; setting forth requirements for registration; permitting a
6 fee for registration; placing a cap on the fee; permitting physician-patient relationship to
7 begin with an audio-only call or conversation in real time; requiring a registrant to report
8 certain information to the board; and clarifying that a registrant is subject to the laws of
9 this state.

Be it enacted by the Legislature of West Virginia:

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

§30-1-26. Telehealth practice.

1 (a) For the purposes of this section:

2 “Health care practitioner” means a person licensed under §30-1-1 *et seq.* who provides
3 health care services.

4 “Interstate telehealth services” means the provision of telehealth services to a patient
5 located in West Virginia by a health care practitioner located in another state.

6 “Registration” means an authorization to practice a health profession regulated by this
7 chapter for the limited purpose of providing interstate telehealth services within the registrant’s
8 scope of practice.

9 “Telehealth services” means the use of synchronous or asynchronous
10 telecommunications technology or audio only telephone calls by a health care practitioner to
11 provide health care services, including, but not limited to, assessment, diagnosis, consultation,
12 treatment, and monitoring of a patient; transfer of medical data; patient and professional health-

13 related education; public health services; and health administration. The term does not include
14 ~~audio-only telephone calls~~ internet questionnaires, e-mail messages, or facsimile transmissions.

15 (b) Unless already provided for by statute or legislative rule, a health care board, referred
16 to in this chapter, shall propose a an emergency rule for legislative approval in accordance with
17 the provisions of §29A-3-1 *et seq.* to regulate telehealth practice by a telehealth practitioner. The
18 proposed rule shall consist of the following:

19 (1) The practice of the health care service occurs where the patient is located at the time
20 the telehealth technologies are used;

21 (2) The health care practitioner who practices telehealth ~~must be licensed as provided in~~
22 ~~this chapter shall be:~~

23 (A) Licensed in good standing in the state in which he or she is located and not currently
24 under investigation or subject to an administrative complaint; and

25 (B) Registered as an interstate telehealth practitioner with the appropriate board in West
26 Virginia;

27 (3) When the health care practitioner patient relationship is established;

28 (4) The standard of care;

29 ~~(5) A prohibition of prescribing schedule II drugs, unless authorized by another section;~~
30 ~~and Establish the conduct of a registrant for which discipline may be imposed by the board of~~
31 ~~registration; and~~

32 ~~(6) Implement the provisions of this section while ensuring competency, protecting the~~
33 ~~citizens of this state from harm, and addressing issues specific to each profession.~~

34 (5) Establish a fee, not to exceed the amount to be paid by a licensee, to be paid by the
35 interstate telehealth practitioner registered in the state; and

36 (6) A reference to the Board's discipline process.

37 (c) A registration issued pursuant to this section does not authorize a health care
38 professional to practice from a physical location within this state without first obtaining appropriate
39 licensure.

40 (d) By accepting a registration to provide interstate telehealth services to patients in this
41 state, a health care practitioner is subject to:

42 (1) The laws regarding the profession in this state, including jurisdiction of state
43 courts to enforce the state's laws regulating medical care in the state with service of
44 process on the health care provider provided through the West Virginia Secretary of State,
45 all professional rules and standards of conduct incorporated into the health care
46 practitioner's practice act, and the legislative rules of the registering board; and

47 (2) The jurisdiction of the board with which he or she registers to provide interstate
48 telehealth services, including such board's complaint, investigation, and hearing process.

49 (e) A health care professional who registers to provide interstate telehealth services
50 pursuant to this section shall immediately notify the board where he or she is registered in West
51 Virginia and of any restrictions placed on the individual's license to practice in any state or
52 jurisdiction.

53 (f) A person currently licensed in this state is not subject to the registration by shall practice
54 telehealth in accordance with the provisions of this section and the rules promulgated thereunder.

ARTICLE 3. WEST VIRGINIA MEDICAL PRACTICE ACT.

§30-3-13a. Telemedicine practice; requirements; exceptions; definitions; rule-making.

1 [Repealed]

ARTICLE 14. OSTEOPATHIC PHYSICIANS AND SURGEONS.

§30-14-12d. Telemedicine practice; requirements; exceptions; definitions; rulemaking.

1 [Repealed]

NOTE: The purpose of this bill is to permit a licensed health care professional from another to state to practice in this state through telehealth when registered with the appropriate West Virginia board.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.