IN THE GENERAL ASSEMBLY STATE OF __________

Telemedicine Licensure Act

Be it enacted by the People of the State of __________, represented in the General Assembly:

Section 1. Title. This act shall be known as and may be cited as the Telemedicine Act.

Section 2. Definitions.

(A) “Telemedicine” or “telehealth” means health care services provided to a patient who is at a remote location using technology.

(B) “Store and forward” transfer means the transmission of a patient’s medical information, such as digital images, documents, and pre-recorded video, from an originating site to the physician at the distant site for clinical evaluation.

Drafting note: Store and forward technology is most commonly used in radiology, pathology, dermatology, and ophthalmology.

(C) “Distant site” means a site at which a physician is located while providing health care services by means of telemedicine.

(D) “Originating site” means a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine.
Section 3. Licensure.

(A) Physicians treating patients in [State] through telemedicine or telehealth must be fully licensed to practice medicine in [State] and shall be subject to regulation by the [State] Board of Medicine.

(B) This section does not apply to:

(1) An informal consultation or second opinion, at the request of a physician licensed to practice medicine in this state, provided that the physician requesting the opinion retains authority and responsibility for the patient’s care; and

(2) Furnishing of medical assistance by a physician in case of an emergency or disaster if no charge is made for the medical assistance.

(C) This section shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting or in a manner not otherwise authorized by the laws of this state.
IN THE GENERAL ASSEMBLY STATE OF __________

Telemedicine Venue Act

Section 1. Venue.
(A) Venue in any suit filed involving care rendered via telemedicine pursuant to the provisions of this Act shall be proper and instituted before the district court of the judicial district in which the patient was physically located during the provision of the telemedicine service. The patient is considered physically located at the originating site as defined in Section 2(D).
Telemedicine Practice Act

Section 1. Evaluation and Treatment of the Patient.

(A) The standards and scope of telemedicine services should be consistent with related in-person services.

(B) Telemedicine shall not be utilized by a physician with respect to any patient located in [State] in the absence of a physician-patient relationship.

(C) If a physician providing treatment via telemedicine does not have an established physician-patient relationship with a person seeking such treatment, the physician shall take appropriate steps to establish a physician-patient relationship by use of two-way audio-visual interaction or store-and-forward technology; provided however, that the applicable [State] community standard of care must be satisfied. Nothing in this section shall prohibit electronic communications:

(1) Between a physician and a patient with a preexisting physician-patient relationship.

(2) Between a physician and another physician concerning a patient with whom the other physician has a physician-patient relationship.

(3) Between a provider and a patient when treatment is provided an on-call or cross-coverage situation. An “on-call” physician is a [State] licensed physician who is available to physically attend, if necessary, to urgent and follow up care needs of a...
patient for whom he has temporarily assumed responsibility with the acknowledgment of
the patient’s primary provider of care. A “covering” physician means a physician who
conducts a medical evaluation other than an in-person medical evaluation at the request
of a physician who has conducted at least one (1) in-person medical evaluation of the
patient within the previous twelve (12) months and who is temporarily unavailable to
conduct the evaluation of the patient.

(4) In emergency situations in which there is an occurrence that poses an
imminent threat of a life-threatening condition or severe bodily harm.

(D) Physicians who utilize telemedicine shall, if such action would otherwise be required
in the provision of the same service delivered in-person:

(1) verify the location and, to the extent possible, identify the requesting patient;

(2) disclose and validate the physician’s identity and applicable credential(s);

(3) obtain appropriate consents from requesting patients after disclosures
regarding the delivery models and treatment methods or limitations, including informed
consents regarding the use of telemedicine technologies as indicated in Section 5;

(4) establish a diagnosis through the use of acceptable medical practices,
including patient history, mental status examination, physical examination (unless not
warranted by the patient’s mental condition), and appropriate diagnostic and laboratory
testing to establish diagnoses, as well as identify underlying conditions or contra-
indications, or both, to treatment recommended or provided;

(5) discuss with the patient the diagnosis and the evidence for it, the risks and
benefits of various treatment options;

(6) ensure the availability of appropriate follow-up care; and

(7) provide a visit summary to the patient.
(E) Physicians who utilize telemedicine must make all reasonable efforts to coordinate care with the patient’s medical home and/or treating physician, such as by identifying the patient’s medical home and/or treating physician and, with the patient’s consent, providing the medical home and/or treating physician with a copy of the patient’s medical record.

(F) Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of care as those in in-person settings.

Drafting Note re: Online Prescribing—To provide further guidance on provisions addressing prescribing in response to online or telephone questionnaires, states may wish to include the following language:

(G) Without a prior and proper physician-patient relationship, physicians are prohibited from issuing prescriptions solely in response to an Internet questionnaire, email message, patient-generated medical history, audio-only telephone consult, or any combination thereof.

Drafting Note re: Exceptions—States may wish to address the application of this section to specialty practice such as radiology, neurology, pathology, dermatology and others, as appropriate, where the application of technology in medical practice is well established, defined and constitutes the standard of care.

Section 2. Informed Consent.

(A) The physician must follow applicable state and federal statutes and regulations for informed consent.

Section 3. Privacy Practices.

(A) The physician must follow applicable state and federal statutes and regulations for privacy and security of individually identifiable health information.

Section 4. Medical Records.
(A) The physician treating a patient through telemedicine must maintain a complete record of the patient’s care.

(B) The physician must disclose the record to the patient consistent with state and federal laws.

(C) The physician must follow applicable state and federal statutes and regulations for medical recordkeeping and confidentiality.

Section 5. Fraud and Abuse

(A) The physician must follow applicable state and federal statutes and regulations for fraud and abuse.

Section 6. Effective. This Act shall become effective immediately upon being enacted into law.

Section 7. Severability. If any provision of this Act is held by a court to be invalid, such invalidity shall not affect the remaining provisions of this Act, and to this end the provisions of this Act are hereby declared severable.
IN THE GENERAL ASSEMBLY STATE OF __________

Telemedicine Reimbursement Act

Section 1. Coverage of telemedicine services.

(A) Each carrier offering a health plan in this state shall provide coverage for the cost of health care services provided through telemedicine on the same basis and to the same extent that the carrier is responsible for coverage for the provision of the same service through in-person treatment or consultation. Coverage must not be limited only to services provided by select corporate telemedicine providers.

(B) A carrier offering a health plan in this state shall not exclude a service for coverage solely because the service is provided through telemedicine services and is not provided through in-person consultation or contact between a physician and a patient for services appropriately provided through telemedicine services.

(C) A carrier offering a health plan in this state shall reimburse the treating or consulting physician for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and to the same extent that the carrier is responsible for reimbursement for the provision of the same service through in-person treatment or consultation.

(D) A carrier offering a health plan in this state may offer a health plan containing a deductible, copayment, or coinsurance requirement for a health care service provided through telemedicine services, provided that the deductible, copayment, or coinsurance does not exceed...
the deductible, copayment, or coinsurance applicable if the same services were provided through in-person diagnosis, consultation, or treatment.

(E) No carrier offering a health plan in this state shall impose any annual or lifetime dollar maximum on coverage for telemedicine services other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the policy, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.

(F) The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in [State] on and after January 1, 20__ [year], or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

(G) This section shall not apply to short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

_Drafting Note re: Utilization Review and Prior Authorization—States may wish to include the following provision regarding utilization review and prior authorization:

(H) Nothing shall preclude the insurer, corporation, or health maintenance organization from undertaking utilization review to determine the appropriateness of telemedicine services, provided that such appropriateness is made in the same manner as those determinations are made for the treatment of any other illness, condition, or disorder covered by such policy, contract, or plan, and provided all adverse determinations are made by a physician who
possesses a current and valid non-restricted license to practice medicine in [State] and is board certified or eligible in the same specialty as the physician who typically manages the medical condition or disease or provides the health care service. Any such utilization review shall not require prior authorization of emergent telemedicine services.

Adopted November 2014; revised November 2016.