Uniform Telehealth Act

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

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Uniform Telehealth Act

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Prefatory Note

In recent years, improvements in telecommunication technologies have transformed the delivery of health care, increasing access for those in underserved geographic areas as well as others who face barriers in accessing services provided in person. Practitioners have increasingly turned to telehealth, the use of synchronous and asynchronous telecommunication technology to provide health care to a patient at a different physical location. As the provision of telehealth services has increased, states have enacted laws that define telehealth and impose requirements with respect to its use. These laws have evolved over time to address changing conditions, needs, opportunities, and technological advances. The arrival of the COVID-19 pandemic greatly expanded patient demand for telehealth services, accelerating this evolution and providing real-world evidence on the effectiveness of these services. To meet patient needs, many states chose to modify licensure and other requirements that served as barriers to the remote delivery of care. In the aftermath of the pandemic, many states are re-examining laws related to telehealth, often with an eye toward expanding access to care while maintaining protections for patients.

The Uniform Telehealth Act reflects this evolutionary trend. It has two broad objectives. The first is to make clear that as a general matter, a practitioner who is licensed or is otherwise authorized to provide health care in the enacting state may provide care through telehealth to a patient located in the state, if doing so is consistent with the applicable professional practice standards and the practitioner's scope of practice as defined by the enacting state. The second is to expand the circumstances under which appropriately qualified out-of-state practitioners are permitted to deliver telehealth services to patients located in the enacting state.

By offering a framework that will support these objectives, the act seeks to increase patients' access to high-quality care. The act's focus on patients is reflected in the act's scope: the Uniform Telehealth Act applies to the provision of telehealth services to a patient located in the state that enacts it. The goal of increasing access is also reflected in the act's application to a broad range of health care practitioners and in its broad definition of telehealth, which allows practitioners and patients to use the most accessible technology that supports the provision of health care that meets the standard of care applicable to in-person services.

To achieve its first objective, the act authorizes the delivery of care to patients via telehealth, making clear that the same standards that apply to the provision of in-person care in the enacting state also apply to the provision of telehealth services to a patient located in the enacting state. For example:

1. A practitioner may establish a relationship with a patient via telehealth, just as a practitioner may establish a relationship with a patient in person.
2. A standard of care requiring follow-up treatment applies regardless of whether the initial care is provided in person or via telehealth.
3. A professional practice standard that requires a physician to maintain records documenting care applies regardless of whether the care is provided in person or via telehealth.
4. A physician required to obtain informed consent for in-person care must also obtain informed consent for comparable telehealth services.
5. A practitioner providing telehealth services to a patient located in the enacting state

must adhere to the same privacy and confidentiality requirements that would apply if the care were provided in person in the state.

6. If law of the enacting state prohibits the provision of a type of care, that prohibition will apply to both care provided in person and care provided through telehealth.

As these examples illustrate, the Uniform Telehealth Act does not supplant state statutes that impose requirements or limitations on the delivery of health care. Nor does it seek to create a new standard of care or impose new requirements exclusively applicable to care delivered through telehealth. Instead, it embodies a regulatory approach that treats telehealth as a modality for the provision of care, extending professional practice standards applicable to the provision of in-person care to the provision of care via telehealth. Consistent with this approach, a board seeking to regulate the provision of care may do so by imposing requirements or adopting restrictions with respect to the nature of care provided, without regard to the modality through which it is delivered. A board may establish a general standard of care that applies to all health care, but under section 5(b) may not establish a different standard of care that applies only to telehealth. At the same time, the Uniform Telehealth Act's sections 4(a) and 4(b) make clear that federal law or law of the enacting state may prohibit the provision of certain services via telehealth.

The Uniform Telehealth Act takes two approaches to achieving its second objective of expanding the circumstances under which patients located in the enacting state may receive services from practitioners who hold licenses elsewhere. First, it identifies certain circumstances under which a practitioner may provide telehealth services to a patient located in the enacting state, even if the practitioner lacks a license in the enacting state. For example, it authorizes the provision of telehealth services in consultation with a practitioner licensed in the enacting state. It allows out-of-state practitioners to provide telehealth services in the form of a second opinion. It permits the provision of follow-up care to travelers in the enacting state by physicians licensed outside of the enacting state. The act's telehealth-specific exceptions to licensure requirements would exist alongside any other authorizations the enacting state has already granted for the provision of care in the absence of a license.

The Uniform Telehealth Act also expands patients' access to care by establishing a registration system that enables out-of-state practitioners who lack a license in the enacting state to provide telehealth services in the same circumstances in which practitioners licensed in the enacting state may provide these services. When enacting the act, a state must identify the licensing boards that will participate in registration systems. The act specifies the criteria applicants must meet to qualify for registration; boards are required to register applicants meeting these criteria and are precluded from registering others. For example, practitioners subject to recent disciplinary action in their state of licensure (other than actions related to fees or continuing education) do not qualify for registration and would instead need to pursue full licensure if they seek general authorization to provide telehealth services in the enacting state. Registered practitioners are subject to potential disciplinary action in connection with the telehealth services they provide to patients located in the enacting state, as well as in connection with disciplinary action undertaken by licensing boards in other states.

While the act's registration system imposes some obligations on registered practitioners, its overall impact is to reduce the burden on practitioners who might otherwise be subject to

differing licensure requirements in multiple states. Registered practitioners are subject to licensure-related requirements such as continuing medical education requirements only in the state or states in which they hold licenses, not in states in which they are registered. By reducing the licensure-related barriers to providing care across state lines, a registration system may expand state residents' access to health care services.

The Uniform Telehealth Act focuses on issues related to the delivery of telehealth services. It does not include provisions related to health insurance coverage or provider payment, instead leaving these policy choices to other state law; many states already have statutes addressing these issues. Given the implications of coverage and payment policies for access to telehealth services, states may want to re-examine these provisions at the same time they enact this act.

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 individuals who provide health care.

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

(3) "Health care" means care, treatment, or a service or 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) a standard of care;

(B) a standard of professional ethics; and

(C) a practice requirement imposed by a board.

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

(8) "Registering board" means a board of 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 technology that supports communication through electronic means. The term is not limited to regulated technology or 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), a state should cite the statutes that provide for licensure or certification of the types of practitioners whose provision of telehealth services is subject to this act.*

Comment

1. Improvements in technology have greatly expanded the types of health care that can be delivered to patients at distant locations. As technology continues to evolve, it is important that regulatory structures encompass new technologies and the diverse forms of care they can help deliver. For this reason, "health care" is defined broadly to include diverse activities practitioners undertake with the goal of improving health. Similarly, the definitions of "telecommunication technology" and "telehealth" do not restrict the forms of technology practitioners may use to provide health care to patients at distant locations. For example, "telecommunication technology" includes both landline and cellular telephones, in addition to internet-based technology.

2. The definitions in this section apply only to the provisions of this act, and the terms included may be defined differently elsewhere in state law. For example, a state with statutes related to insurance coverage or payment policy for telehealth services may define telehealth differently for the purpose of coverage or payment requirements.

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.

Comment

1. This act applies to the provision of telehealth services to a patient located in this state at the time the services are provided. For example, it applies when a practitioner licensed and located in this state provides telehealth services to an established patient who has contacted the practitioner from the patient's home in this state. It also applies when an out-of-state practitioner provides care to a resident of another state who has traveled to this state to visit friends or relatives. It does not apply to services provided to a patient located outside this state at the time of services, even if the patient is a resident of this state. When section 4 of this act authorizes the provision of telehealth services, it does so with respect to patients located in this state at the time the services are provided. When section 5 of this act describes the standards that apply to the provision of telehealth services, its focus is the services delivered to a patient present in this state, without regard to the residence of the patient.

2. Given the act's focus on patients located in this state at the time of services, neither section 4 nor section 5 applies when a practitioner located in this state and/or licensed in this state provides care to a patient located outside this state. For example, this act is silent with respect to the standards that would apply when a physician licensed in this state provides telehealth services to a patient who is traveling in another state. This act is also silent with respect to the standards that would apply when a physician temporarily present in this state provides care to an established patient located in another state. The act's scope reflects the act's goal of serving patients located in this state by enhancing access and ensuring the quality of care.

3. States have implemented, and may continue to consider, requirements, authorizations and/or privileges that are applicable to practitioners licensed and located in their state who deliver telehealth services to patients in another state. This Act is silent as to those provisions as this act only applies to the care provided to patients located in the enacting state. This Act thus does not affect the ability of enacting states to regulate in-state practitioners delivering care outside their states or to respond to evolving frameworks regarding state-based licensure and practices as the field of telehealth develops.

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, applicable professional practice standards in this state, and 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 the health care complies with the requirements, limitations, and prohibitions of the federal law or law of this state.

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

Comment

1. This section authorizes a practitioner to provide telehealth services to a patient located in this state. In providing the services, the practitioner is subject to other law of this state, including law of this state that requires licensure, registration, certification, or other authorization to deliver health care and law of this state that limits the practitioner's scope of practice. For example, a nurse practitioner who holds a license in another state would need to obtain a license or other appropriate authorization to provide telehealth services in this state and would be subject to any restrictions this state places on nurse practitioners' practice, such as limits on their ability to prescribe particular drugs or requirements for collaborative agreements or supervision. Section 5 of this act makes clear that a practitioner providing telehealth services to a patient located in this state is required to adhere to the relevant professional practice standards in this state; the standard of care applicable to in-person care also applies to comparable telehealth services delivered to a patient in this state.

2. The law of this state or federal law may limit or prohibit the provision of particular types of telehealth services to a patient located in this state. If the law of this state or federal law restricts the provision of a particular type of health care, this restriction applies to those seeking to deliver the services through telehealth, just as they apply to those seeking to deliver the services in person. If a state statute prohibits the delivery of a particular type of service through telehealth, this prohibition applies to a practitioner providing health care to a patient located in this state. If state regulations restrict the provision of care to an individual holding a particular type of license, then neither in-state nor out-of-state practitioners holding another type of license would be permitted to provide that care via telehealth to a patient located in this state.

Section 5. Professional Practice Standard

(a) A practitioner who provides telehealth services to a patient located in this state shall provide the services 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.

Comment

1. This section describes the standards that apply to the provision of telehealth services to a patient located in this state. Rather than creating new or separate standards for the provision of telehealth services, section 5(a) makes clear that the regulatory structure applicable to the delivery of in-person health care also applies to the delivery of telehealth services. Professional practice standards applicable to health care generally will also apply to health care delivered through electronic means. For example, a requirement that a physician obtain informed consent applies in the context of telehealth. Similarly, expectations that a health care practitioner verify an individual's identity apply equally to all services provided to patients located in this state, regardless of whether those services are delivered in person or via telehealth. A regulation imposing requirements intended to protect patient privacy applies to both in-person care and care delivered via telehealth, even if the particular privacy concerns addressed are more likely to arise in one care setting than the other. Section 5(a) illustrates potentially applicable standards and law with a list of examples; states may differ in the health care standards they adopt, and the list is not intended to be comprehensive.

2. The law applicable to health care provided in this state may include federal law, such as the Ryan Haight Online Pharmacy Consumer Protection Act, which currently prohibits practitioners from prescribing controlled substances without first having conducted an in-person medical evaluation, except in limited circumstances.

3. Section 5(b) reinforces section 5(a) by prohibiting boards from creating an independent standard applicable only to telehealth services. Because telehealth is a mechanism for delivering health care, practitioners are expected to ensure that any telehealth services they provide meet the standard of care for health care in general. If telecommunication technologies can deliver services that meet the standard of care for in-person services, then a board may not impose a standard that would prohibit the use of telehealth to deliver that care. However, the existence of unitary standards equally applicable to in-person and remote care does not imply that the process for delivering telehealth services will always be identical to the process for delivering in-person health care.

Moreover, in some cases, practitioners will not be able to provide telehealth services because the services would not meet the standard of care. For example, if the standard of care requires an examination in which a physician feels for lumps, the examination cannot be conducted through telehealth. If determining appropriateness of a medical treatment requires obtaining specific information about the condition of an individual, a board could impose a rule requiring a practitioner to obtain that information before prescribing or delivering the treatment. If the information can only be obtained through a test or screening that cannot be done remotely, such as an x-ray, then care for the patient would need to include in-person services. Such a rule would not establish a separate standard for telehealth but could have the effect of limiting the use of telehealth to provide care.

4. Section 5 implements a technology-neutral approach to regulating the provision of telehealth services, consistent with the act's overall emphasis on the standard of care, rather than the modality enabling care. Section 5(b) precludes boards from mandating or prohibiting the use of particular telecommunication technologies to deliver services. For example, a board may not adopt a blanket rule prohibiting practitioners from delivering telehealth services via the telephone. However, professional practice standards may have the effect of limiting the technologies used to deliver telehealth services. For example, if generally applicable identity verification standards require the presentation of government-issued identification to establish a practitioner-patient relationship, telehealth cannot be conducted solely via a telephone call. If the standard of care requires a visual examination, the board may impose a rule incorporating a standard that could be met through in-person examination or technologies supporting high-resolution images, but not through other technologies. A board may require encryption that meets a particular standard so as to ensure confidentiality, but may not mandate the use of a specific technology. Boards may impose standards for the provision of care, but they may not unilaterally adopt rules that prohibit particular telehealth technologies.

5. While a board may not unilaterally adopt a rule intended to limit telehealth technologies, a state may adopt a statute limiting or prohibiting the use of telehealth. Such statutory limits are contemplated by section 4 of this act and notwithstanding section 5(b), a board may adopt regulations implementing or interpreting such statutes to the extent permitted by state law.

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 health care, including follow-up care, under the authorization of subsection (a)(3)(C) should enact the bracketed provision. The state should specify the length of time for which the authorization is granted.*

A state that imposes a licensure or certification requirement on an individual who controls or is otherwise associated with an entity that provides health care to a patient located in this state should enact subsection (c) if, in the case of a telehealth provider, the state wishes to allow an out-of-state practitioner to meet the requirement through registration.

Comment

1. Under section 6(a)(1), individuals who are licensed to provide health care in another state are authorized to provide telehealth services in this state if they are appropriately licensed or certified in this state or if they are otherwise authorized to provide health care in this state. Many

states currently permit out-of-state practitioners to provide health care within their state borders, even if the practitioners do not hold a license in the state. For example, a state may exempt from licensure requirements students in training programs, certain practitioners providing care at the scene of an emergency, or practitioners providing services for individuals participating in athletic events, among others. Under certain circumstances, the Emergency Management Assistance Compact permits practitioners to provide services in a state without having obtained a license in that state.

2. Section 6(a)(2) authorizes out-of-state practitioners who do not hold a license in this state to provide telehealth services if they register under section 7. Registration under section 7 authorizes out-of-state practitioners to provide telehealth services to patients located in this state but does not authorize the provision of in-person health care in this state.

3. Under section 6(a)(3)(A), an out-of-state practitioner is authorized to consult with a practitioner who has established a practitioner-patient relationship with a patient located in this state.

4. Section 6(a)(3)(B) authorizes an out-of-state practitioner to use telehealth to provide specialty assessments, diagnoses, and/or recommendations for treatment to a patient located in this state. For example, a patient who initiates care with a local practitioner may seek further information from an out-of-state practitioner associated with a center of excellence. The provision of second opinions under this section must be made in accordance with applicable professional practice standards and the law of this state, as required by sections 4 and 5 of this act. In some cases, a practitioner may not be able to meet the standard of care for these services using telecommunication technologies; in such cases, the practitioner may not provide these services using telehealth. Section 6(a)(3)(B) does not authorize an out-of-state practitioner to provide treatment via telehealth. If a patient located in this state receives a specialty assessment, diagnosis and/or recommendation for treatment from an out-of-state practitioner and then seeks treatment from that practitioner via telehealth, the practitioner could only provide that treatment if the practitioner obtains a license in this state, registers under section 7, provides care in consultation with a practitioner under 6(a)(3)(A), or is authorized to provide treatment under another provision of the law of this state.

5. Section 6(a)(3)(C) permits an out-of-state practitioner to provide telehealth services to a patient located in this state pursuant to a previously established practitioner-patient relationship. The relevant relationship could be between the out-of-state practitioner and the patient. Alternatively, the relationship could be between an associate of the out-of-state practitioner and the patient. This provision encompasses the common scenario in which a patient who is traveling calls their primary care physician to receive care the physician would have provided to the patient, if the patient had been at home at the time the need arose. It also permits the traveling patient's primary care physician, another licensed member of the patient's care team, or any licensed individual who would have provided care within the patient's home state under an arrangement with the patient's care team, to provide the follow-up care. Out-of-state practitioners must be mindful, however, that under section 4(a), any requirements with respect to the delivery of health care within this state will apply, including scope of practice limitations and limitations on the prescription of controlled substances. In addition, under section 5(a), the standards of practice within this state will apply; such standards may have the effect of limiting

the types of follow-up care an out-of-state practitioner may provide via telehealth.

6. Some states require that particular types of practitioners be supervised when delivering specific forms of health care. If this state requires that a practitioner be supervised by an individual holding a license or certification within this state, section 6(b) permits the supervisor to meet this requirement for licensure or certification through registration under section 7.

7. Some states have corporate practice of medicine laws that require that entities providing health care within the state be controlled by individuals holding licenses within the state and/or have medical directors who are licensed within the state. Just as registration under section 7 would permit out-of-state practitioners to provide health care via telehealth, but not in-person health care within the state, section 6(c) permits registration under section 7 to meet any licensure requirements applicable to those holding the specified roles within the entity, but only if the health care the entity delivers to patients located within the state consists only of telehealth services.

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 a ground 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 an action 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 not less than the amount required for a practitioner providing the same services in this state; and

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

(b) A registering board may 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 an application for registration under subsection (a) and a form for identifying the agent under subsection (a)(7).

(d) A registering board may establish a registration fee that reflects the expected cost of registration under this section and the cost of undertaking investigation, disciplinary action, and other activity relating 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 relating to an application by an out-of-state practitioner for licensure or certification.

Legislative Note: *In subsection (a), a state should specify the boards that are required to register out-of-state practitioners under this section.*

In subsection (a)(7), a state should enact the bracketed provision if it has law governing the appointment of an agent for service of process.

Comment

1. Section 7 establishes a system by which individuals licensed or certified to provide health care in another state may register in this state. A state enacting this act must identify the specific boards that will be included in this system. The identified boards are required to register all out-of-state practitioner applicants who meet the requirements specified in this section, such as holding an active, unrestricted license or certification in another state and not being subject to a pending disciplinary investigation or action by a board (of any state). Registered practitioners are authorized to provide telehealth services to patients located in this state under section 6(a)(2) of this act.

2. While section 7(a) requires a board to register all appropriately qualified applicants, section 7(a)(2) limits registration to practitioners whose "license or certification in another state . . . is substantially equivalent to a license or certification issued by the registering board." If it is determined that no other state offers a license equivalent to a particular license in this state, then the board that issues that license should be excluded from section 7(a)'s list of registration boards. However, if a board is included on the list, there will need to be a determination of which licenses or certifications in other states are "substantially equivalent to a license or certification" that is issued by the board. For example, if this state issues a license that permits a practitioner to deliver a broad range of services within this state, a license from another state that permits the practitioner to deliver only a subset of these services might be deemed to not be "substantially equivalent" to this state's license. If the out-of-state practitioner's license is not substantially equivalent to a license within this state, the board must deny the registration.

3. An entity seeking to conduct business in a state is generally required to appoint an agent for service of process within the state, a requirement that becomes important if a plaintiff decides to sue the entity. Section 7(a)(7) imposes a similar requirement on practitioners who wish to register to provide telehealth services in a state. When an entity employs multiple practitioners to provide telehealth services, all of them could meet the agent requirement by appointing the same agent; some entities may be able to serve as agents for a practitioner in multiple states.

4. Section 7(b) prohibits boards from registering applicants who do not satisfy all requirements of section 7(a). For example, if a practitioner was subject to discipline in their state of licensure four years before the practitioner's application for registration, and the discipline did not relate to fee payment or continuing education, the board is not permitted to register the practitioner. However, as section 7(f) makes clear, nothing in this section precludes such a practitioner from applying for, or precludes a board from granting, a license in this state.

5. Section 7(a)(9) indicates that an out-of-state practitioner must pay the required fee to be registered, while Section 7(d) permits a registering board to establish a registration fee that reflects the expected costs associated with registration. Section 7(d) does not preclude a registering board from establishing a fee system that allows for registration fee reductions or waivers in appropriate circumstances.

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 imposed the discipline.

(b) A registering board may take an action under subsection (a) that 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 includes 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.

Comment

1. Section 8 extends a board's disciplinary authority with respect to licensed or certified practitioners to practitioners it registers under section 7. For example, Section 5 indicates that professional practice standards and law applicable to the provision of health care in this state (which would include both federal and state law) apply to the provision of telehealth services in this state. Under section 8(a)(1), a registering board is therefore authorized to discipline a registered practitioner who violates section 5 of this act by providing telehealth services that fail to meet the applicable standard of care, just as it would be authorized to discipline a licensed practitioner who provides telehealth services that fail to meet the applicable standard of care.

2. Section 8(b) makes clear that in disciplining registered practitioners, a registering board may make use of the same types of disciplinary action it is authorized to take against licensed practitioners who provide comparable services. Section 8(c) indicates that the disciplinary action may include the suspension or revocation of registration and that suspension or revocation should be undertaken in accordance with existing state law applicable to disciplinary action against those holding a license in the state. A state may choose to cite the applicable provisions, potentially including the relevant provisions of a state's administrative procedure act, in section 8(c).

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 practitioner's license or certification, or taken a disciplinary action against the practitioner;

(2) shall maintain professional liability insurance that includes coverage for telehealth services provided to patients located in this state in an amount not less than the amount required 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.

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

Legislative Note: *In subsection (b), a state should include the bracketed text or other appropriate terms if (1) state law does not make clear that the reference to an action brought by the patient includes an action brought by a person acting in place or on behalf of the patient or (2) the state wishes to apply subsection (b) to a person that brings a claim under the state's wrongful death statute.*

Comment

Section 10(b) is a venue provision that permits a patient who has a cause of action to sue a registered practitioner in the patient's county of residence as well as "in another location authorized by law." While in some states existing statutes addressing venue already accomplish this goal, this subsection makes clear that a venue provision in state law will apply to suits arising out of telehealth services provided to a patient located in the state, just as it would to services delivered in-person in the state.

[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 or an umbrella agency on behalf of the board. If state law does not authorize boards to engage in rulemaking, but instead delegates rulemaking authority to an umbrella agency, the name of the agency should be inserted instead of "a 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 . . .