CHAPTER 80
FORMERLY
HOUSE BILL NO. 69
AS AMENDED BY
HOUSE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 18 AND 24 OF THE DELAWARE CODE RELATING TO TELEMEDICINE SERVICES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 33 of Title 18 of the Delaware Code to add new "§ 3370" as follows:

§ 3370. Telemedicine.

(a) As used in this section:

(1) "Distant site" means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(2) "Originating site" means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(3) "Store and forward transfer" means the transmission of a patient's medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(4) "Telehealth" means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(5) "Telemedicine" means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care by a health care provider practicing within his or her scope of practice as would be practiced in-person with a patient, and legally allowed to practice in the state, while such patient is at an originating site and the health care provider is at a distant site.

(b) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each health service corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine.

(c) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each health service corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telehealth as directed through regulations promulgated by the Department.

(d) An insurer, health service corporation, or health maintenance organization 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 health care provider and a patient for services appropriately provided through telemedicine services.

(e) An insurer, health service corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer, health service corporation, or health maintenance organization is responsible for coverage for the provision of the same service through in-person

consultation or contact. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health care services.

(f) No insurer, health service corporation, or health maintenance organization 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.

(g) The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on and after enactment of this section or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

(h) This section shall not apply to short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts, nor shall it contravene any telehealth requirements made in policies or contracts designed for issuance to persons eligible for coverage under Titles XVIII, XIX, and XXI of the Social Security Act, known as Medicare, Medicaid, or any other similar coverage under state or federal governmental plans.

Section 2. Amend § 1702, Title 24 of the Delaware Code as follows:

(3) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine.

(3) "Division" means the Division of Professional Regulation.

(4) "Executive Director" means the Executive Director of the Board of Medical Licensure and Discipline.

(5) "Healthcare institution" means a facility or agency licensed, certified, or otherwise authorized by law to provide, in the ordinary course of business, treatments, services, or procedures to maintain, diagnose, or otherwise affect a person's physical or mental condition.

(6) "Medical group" means 1 or more physicians or other health care practitioners who work together under the name of a professional corporation, a limited liability partnership, or other legal entity.

(7) "Medicine" means the science of restoring or preserving health and includes allopathic medicine and surgery, osteopathic medicine and surgery, and all the respective branches of the foregoing.

(9) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(8) "Physician" means an allopathic doctor of medicine and surgery or a doctor of osteopathic medicine and surgery who is registered and certified to practice medicine pursuant to this chapter.

(9) "Practice of medicine" or "practice medicine" includes:

a. Advertising, holding out to the public, or representing in any manner that one is authorized to practice medicine in this State;

b. Offering or undertaking to prescribe, order, give, or administer any drug or medicine for the use of another person;

c. Offering or undertaking to prevent or to diagnose, correct, and/or treat in any manner or by any means, methods, or devices a disease, illness, pain, wound, fracture, infirmity, defect, or abnormal physical or mental condition of another person, including the management of pregnancy and parturition;

d. Offering or undertaking to perform a surgical operation upon another person;

e. Rendering a written or otherwise documented medical opinion concerning the diagnosis or treatment of a person or the actual rendering of treatment to a person within the State by a physician located outside the State as a result of transmission of the person's medical data by electronic or other means from within the State to the physician or to the physician's agent;

f. Rendering a determination of medical necessity or a decision affecting or modifying the diagnosis and/or treatment of a person;

g. Using the designation Doctor, Doctor of Medicine, Doctor of Osteopathy, physician, surgeon, physician and surgeon, Dr., M.D., or D.O., or a similar designation, or any combination thereof, in the conduct of an occupation or profession pertaining to the prevention, diagnosis, or treatment of human disease or condition, unless the designation additionally contains the description of another branch of the healing arts for which one holds a valid license in the State.

For the purposes of this chapter, in order that the full resources of the State are available for the protection of persons using the services of physicians, the act of the practice of medicine occurs where a person is located at the time a physician practices medicine upon the person.

(10) "Registration" means the entry of a certificate to practice medicine into the records of the Board of Medical Licensure and Discipline pursuant to the regulations of the Board.

(13) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(11) "Substantially related" means the nature of criminal conduct for which a person was convicted has a direct bearing on the person's fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of medicine, the work of a physician assistant, of the practice of respiratory care.

(15) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(16) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a health care provider practicing within his or her scope of practice as would be practiced in-person with a patient, legally allowed to practice in the state, while such patient is at an originating site and the health care provider is at a distant site.

Section 3. Amend Chapter 17 of Title 24 of the Delaware Code to include new “§ 1769D” as follows:

§ 1769D. Telemedicine and Telehealth.

(a) Physicians may practice Telemedicine and Telehealth. Provided that Telemedicine shall not be utilized by a physician with respect to any patient in the absence of a physician-patient relationship, except for the instances in subsection (i).

(b) Physicians who utilize telemedicine shall, if such action would otherwise be required in the provision of the same service not delivered via telemedicine, ensure that a proper physician-patient relationship is established either in-person or through telehealth which includes but is not limited to:

(1) fully verifying and authenticating the location and, to the extent possible, identifying the requesting patient;

(2) disclosing and validating the provider’s identity and applicable credential(s);

(3) obtaining 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 subsection (b)(5) of this section;

(4) establishing a diagnosis through the use of acceptable medical practices, such as 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) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and

(6) ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care; and

(7) providing a written visit summary to the patient.

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

(d) The physician treating a patient through telemedicine must maintain a complete record of the patient's care which must follow all applicable state and federal statutes and regulations for recordkeeping, confidentiality, and disclosure to the patient.

(e) Telemedicine shall include, at such time as feasible and when appropriate, utilizing the Delaware Health Information Network (DHIN) in connection with the practice.

(f) Without a prior and proper patient-provider relationship, as provided in subsection (b) of this section, providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult.

(g) Prescriptions made through telemedicine and under a physician-patient relationship may include controlled substances, subject to limitations as set by the Board.

(h) Physicians using telemedicine technologies to provide medical care to patients located in Delaware must, prior to a diagnosis and treatment, either provide: (1) an appropriate examination in-person, (2) have another Delaware-licensed practitioner at the originating site with the patient at the time of the diagnosis, (3) the diagnosis must be based using both audio and visual communication, or (4) the service meets standards of establishing a patient-physician relationship included as part of evidenced-based clinical practice guidelines in telemedicine developed by major medical specialty societies, such as those of radiology or pathology.

(i) Telemedicine may be practiced without a physician-patient relationship during:

(1) Informal consultation performed by a physician outside the context of a contractual relationship and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;

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

(3) Episodic consultation by a medical specialist located in another jurisdiction who provides such consultation services on request to a licensed health care professional.

Section 4. Amend § 1773, Title 24 of the Delaware Code as follows:

(a) The Council shall adopt rules and regulations which address the following:

(1) The licensing of physician assistants to allow:

a. The performance of delegated medical acts within the education, training, and experience of physician assistants; and

b. The performance of services customary to the practice of the supervising physician;

(2) Delegated medical acts provided by physician assistants to include, but not be limited to:

a. The performance of complete patient histories and physical examinations;

b. The recording of patient progress notes in an outpatient setting;

c. The relaying, transcribing, or executing of specific diagnostic or therapeutic orders;

d. Medical acts of diagnosis and prescription of therapeutic drugs and treatments which have been delegated by the supervising physician;

e. Prescriptive authority for therapeutic drugs and treatments within the scope of physician assistant practice, as delegated by the supervising physician. The physician assistant's prescriptive authority and authority to practice as a physician assistant are subject to biennial renewal upon application to the Physician Assistant Regulatory Council; and

f. The use of Telemedicine as defined in this Chapter and, as further described in regulation, the use of and participation in Telehealth.

Section 5. Amend § 1776, Title 24 of the Delaware Code as follows:

(2) "Respiratory care practitioner" or "RCP" means an individual who practices respiratory care in accord with the requirements of this subchapter;

(b) A respiratory care practitioner works under the general supervision of a person certified to practice medicine, whether by direct observation and monitoring, by protocols approved by a person certified to practice medicine, or by orders written or verbally given by a person certified to practice medicine. A respiratory care practitioner may evaluate patients and make decisions within parameters defined by a person certified to practice medicine and by the Board of Medical Licensure and Discipline. The work performed by a respiratory care practitioner includes, but is not limited to:

(1) Collecting samples of blood, secretions, gases, and body fluids for respiratory evaluations;

(2) Measuring cardiorespiratory volumes, flows, and pressures;

(3) Administering pharmacological agents, aerosols, and medical gases via the respiratory route;

(4) Inserting and maintaining airways, natural or artificial, for the flow of respiratory gases;

(5) Controlling the environment and ventilatory support systems such as hyperbaric chambers and ventilators;

(6) Resuscitating individuals with cardiorespiratory failure;

(7) Maintaining bronchopulmonary hygiene;

(8) Researching and developing protocols in respiratory disorders;

(9) Performing pulmonary function studies; and

(10) The use of Telemedicine as defined in this Chapter and, as further described in regulation, the use of and participation in Telehealth.

(c) Nothing in this subchapter is intended to limit, preclude, or otherwise interfere with the professional activities of other individuals and healthcare providers formally trained and licensed by the State.

(d) An individual who is licensed pursuant to this subchapter, who is not being investigated or sanctioned in relation to unprofessional conduct or physical, mental, emotional, or other impairment, and who has passed an examination that includes the subject matter of 1 or more of the professional activities included in subsection (b) of this section may not be prohibited from performing those professional activities passed in the examination, provided that the testing body that administered the examination is approved by the Board.

Section 6. Amend § 1799H, Title 24 of the Delaware Code as follows:

(9) The "practice of genetic counseling" shall include any or all of the following activities:

a. Obtaining and interpreting individual, family and medical development histories;

b. Determining the mode of inheritance and risk of transmission of genetic conditions;

c. Discussing the inheritance, features, natural history, means of diagnosis;

d. Identifying, coordinating and explaining genetic laboratory tests and other diagnostic studies; provided however, that if in the course of providing a genetic counseling service to any client, a genetic counselor finds any indication of disease or condition that requires medical assessment, the genetic counselor shall refer a client to a physician licensed to practice medicine;

e. Assessing psychosocial factors, recognizing social, educational, and cultural issues;

f. Evaluating the client's or family's responses to the condition or risk of recurrence and provide client-centered counseling and anticipatory guidance;

g. Communicating genetic information to clients in an understandable manner;

h. Facilitating informed decision making about testing and management alternatives;

i. Identifying and effectively utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and

j. Providing accurate written documentation of medical, genetic, and counseling information for families and health care professionals; and

k. The use of Telemedicine as defined in this Chapter and, as further described in regulation, the use of and participation in Telehealth.

Section 7. Amend § 502, Title 24 of the Delaware Code as follows:

(3) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(10) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(10) "Practice of podiatry" shall mean the diagnosis and the medical, surgical, mechanical, manipulative and electrical treatment of all ailments of the foot and ankle. As appropriate in regulation, these services may be performed with the use of Telemedicine. Podiatry may also include participation in Telehealth, as further defined in regulation. Amputation of the foot shall be restricted to state licensed podiatrists who have completed an American Podiatric Medical Association accredited surgical residency program acceptable to the Board and have current amputation privileges, or have fulfilled the credentialing criteria of the surgical committee of the Joint Committee on Accreditation of Hospitals accredited hospital where the amputation is to be performed.

(11) "State" shall mean the State of Delaware.

(14) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(12) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to podiatry.

(13) "Surgical treatment" shall mean the use of any cutting instrument to treat a disease, ailment or condition.

(14) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(15) “Telemedicine” means the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

Section 8. Amend § 701, Title 24 of the Delaware Code as follows:

(a) "Chiropractic" means a drugless system of health care based on the principle that interference with the transmission of nerve impulses may cause disease.

(b) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(c) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(d) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(b) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(c) “Telemedicine” means a form of telehealth which the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

(d) The practice of chiropractic includes, but is not limited to, the diagnosing and locating of misaligned or displaced vertebrae (subluxation complex), using x-rays and other diagnostic test procedures. The practice includes the use of telemedicine and may also include the practice of and participation in Telehealth, as further defined in regulation. Practice of chiropractic includes the treatment through manipulation/adjustment of the spine and other skeletal structures and the use of adjunctive procedures not otherwise prohibited by this chapter.

Section 9. Amend § 1101, Title 24 of the Delaware Code as follows:

(7) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(10) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(12) "Practice of dentistry" is defined as the evaluation, diagnosis, prevention and/or treatment (nonsurgical, surgical or related procedures) of diseases, disorders and/or conditions of the oral cavity, maxillofacial area and/or the adjacent and associated structures and their impact on the human body provided by a dentist within the scope of the dentist's education, training and experience, in accordance with the ethics of the profession and applicable law. The practice includes the use of Telemedicine and may also include participation in Telehealth as further defined in regulation. A person shall be construed to practice dentistry who by verbal claim, sign, advertisement, opening of an office, or in any other way, including use of the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or titles, represents the person to be a dentist or who holds himself or herself out as able to perform, or who does perform, dental services or work. A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place for performing dental operations or who for a fee, salary or other reward paid, or to be paid either to himself or herself or to another person, performs or advertises to perform dental operations of any kind.

(13) "State" shall mean the State of Delaware.

(15) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(14) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of dentistry or dental hygiene.

(15) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(16) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

Section 10. Amend § 1902, Title 24 of the Delaware Code as follows:

(e) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(l) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(n) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(h) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(i) “Telemedicine” means the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

(n) "The practice of practical nursing" as a licensed practical nurse means the performance for compensation of nursing services by a person who holds a valid license pursuant to the terms of this chapter and who bears accountability for nursing practices which require basic knowledge of physical, social and nursing sciences. These services, at the direction of a registered nurse or a person licensed to practice medicine, surgery or dentistry, include:

(1) Observation;

(2) Assessment;

(3) Planning and giving of nursing care to the ill, injured and infirm;

(4) The maintenance of health and well being;

(5) The administration of medications and treatments prescribed by a licensed physician, dentist, podiatrist or advanced practice nurse; and

(6) Additional nursing services and supervision commensurate with the licensed practical nurse's continuing education and demonstrated competencies;

(7) Dispensing activities only as permitted in the Board's Rules and Regulations.

Nothing contained in this chapter shall be deemed to permit acts of surgery or medical diagnosis; nor shall it be deemed to permit dispensing of drugs, medications or therapeutics independent of the supervision of a physician who is licensed to practice medicine and surgery, or those licensed to practice dentistry or podiatry; and

(8) The use of Telemedicine, as defined in this Chapter, and practice of and participation in Telehealth as further defined in regulation.

(o) "The practice of professional nursing" as a registered nurse means the performance of professional nursing services by a person who holds a valid license pursuant to the terms of this chapter, and who bears primary responsibility and accountability for nursing practices based on specialized knowledge, judgment and skill derived from the principles of biological, physical and behavioral sciences. The registered nurse practices in the profession of nursing by the performance of activities, among which are:

(1) Assessing human responses to actual or potential health conditions;

(2) Identifying the needs of the individual and/or family by developing a nursing diagnosis;

(3) Implementing nursing interventions based on the nursing diagnosis;

(4) Teaching health care practices. Nothing contained herein shall limit other qualified persons or agencies from teaching health care practices without being licensed under this chapter;

(5) Advocating the provision of health care services through collaboration with other health service personnel;

(6) Executing regimens, as prescribed by a licensed physician, dentist, podiatrist or advanced practice nurse, including the dispensing and/or administration of medications and treatments;

(7) Administering, supervising, delegating and evaluating nursing activities~~.;~~

(8) The use of telemedicine, as defined in this Chapter, and participation in Telehealth, asas further defined in regulation.

(8) Nothing contained in this chapter shall be deemed to permit acts of surgery or medical diagnosis; nor shall it be deemed to permit dispensing of drugs, medications or therapeutics independent of the supervision of a physician who is licensed to practice medicine and surgery, or those licensed to practice dentistry or podiatry.

A registered nurse shall have the authority, as part of the practice of professional nursing, to make a pronouncement of death; provided, however, that this provision shall only apply to attending nurses caring for terminally ill patients or patients who have "do not resuscitate" orders in the home or place of residence of the deceased as a part of a hospice program or a certified home health care agency program; in a skilled nursing facility; in a residential community associated with a skilled nursing facility; any licensed assisted living community; in an extended care facility; or in a hospice; and provided that the attending physician of record has agreed in writing to permit the attending registered nurse to make a pronouncement of death in that case.

(p) "The profession of nursing" is an art and process based on a scientific body of knowledge. The practitioner of nursing assists patients in the maintenance of health, the management of illness, injury or infirmity or in the achieving of a dignified death.

Section 11. Amend § 2002, Title 24 of the Delaware Code as follows:

(2) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(3) "Occupational therapist" shall mean a person who is licensed to practice occupational therapy pursuant to this chapter and who offers such services to the public under any title incorporating the words "occupational therapy," "occupational therapist" or any similar title or description of occupational therapy services.

(4) "Occupational therapy assistant" shall mean a person licensed to assist in the practice of occupational therapy, under the supervision of an occupational therapist.

(5) "Occupational therapy services" shall mean, but are not limited to:

a. The assessment, treatment and education of or consultation with the individual, family or other persons; or

b. Interventions directed toward developing, improving or restoring daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills; or

c. Providing for the development, improvement or restoration of sensorimotor, oralmotor, perceptual or neuromuscular functioning, or emotional, motivational, cognitive or psychosocial components of performance.

These services may require assessment of the need for use of interventions such as the design, development, adaptation, application or training in the use of assistive technology devices; the design, fabrication or application of rehabilitative technology such as selected orthotic devices; training in the use of assistive technology, orthotic or prosthetic devices; the application of thermal agent modalities, including, but not limited to, paraffin, hot and cold packs and fluido therapy, as an adjunct to, or in preparation for, purposeful activity; the use of ergonomic principles; the adaptation of environments and processes to enhance functional performance; or the promotion of health and wellness.

Services may be provided through the use of Telemedicine in a manner deemed appropriate by regulation. Services also may include participation in Telehealth as further defined in regulation.

(7) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(6) "Person" shall mean a corporation, company, association and partnership, as well as an individual.

(7) "Practice of occupational therapy" shall mean the use of goal-directed activities with individuals who are limited by physical limitations due to injury or illness, psychiatric and emotional disorders, developmental or learning disabilities, poverty and cultural differences or the aging process, in order to maximize independence, prevent disability and maintain health.

(10) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(8) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of occupational therapy.

(9) "Supervision" shall mean the interactive process between the licensed occupational therapist and the occupational therapy assistant. It shall be more than a paper review or cosignature. The supervising occupational therapist is responsible for insuring the extent, kind and quality of the services rendered by the occupational therapy assistant.

(10) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(11) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

Section 12. Amend § 2101, Title 24 of the Delaware Code as follows:

(a) The "practice of optometry" is a learned profession and the same privileges, powers and duties shall attach thereto as the other learned professions. For purpose of this chapter, the "practice of optometry" is defined as the examination, measurement (by subjective or objective means), diagnosis, treatment and prevention of conditions of the human eye, lid, adnexa and visual system. The "practice of optometry" includes but is not limited to the adapting and fitting of all types of lenses or devices, including the dispensing of contact lenses which must be dispensed in accordance with a written, current contact lens prescription from a licensed physician or optometrist, which includes such information as the Board shall specify by rule or regulation. The practice of optometry also includes the determination of refractive error and/or visual, muscular, or anatomical anomalies of the eye; the use of prescription of pharmaceutical agents for the diagnosis and treatment of ocular disease; the removal of superficial foreign bodies from the human eye and its appendages (appendages shall include cornea, conjuctiva lid, adnexa or lacrimal system); and the providing of vision, developmental and perceptual therapy, and shall include the utilization of any method or means which the optometrist is educationally qualified to provide as established by the Delaware State Board of Examiners in Optometry; provided that the "practice of optometry" does not include surgery or the use of narcotics, or therapeutic lasers.

(b) For purposes of this chapter, the classifications of the "practice of optometry" shall be defined as:

(1) Nondiagnostically certified optometrist shall be permitted to practice optometry as defined in subsection (a) of this section. However, a nondiagnostically certified optometrist may not utilize any diagnostic or therapeutic pharmaceutical agent or remove superficial foreign bodies from the eye and its appendages.

(2) Diagnostically certified optometrists shall be permitted or perform the duties of a nondiagnostically certified optometrist. In addition, a diagnostically certified optometrist may use the following drug groups:

a. Topical anesthetics.

b. Mydriatics.

c. Cycloplegics.

d. Miotics.

(3) Therapeutically certified optometrists shall be permitted to perform the duties of a diagnostically certified optometrist. In addition, a therapeutically certified optometrist may use and/or prescribe the following pharmaceutical agents for the treatment of ocular diseases and conditions:

a. Topical and oral administration:

1. Antihistamines and decongestants.
2. Antiglaucoma.
3. Analgesics (noncontrolled).
4. Antibiotics.

b. Topical administration only:

1. Autonomics.
2. Anesthetics.
3. Anti-infectives, including antivirals and antiparasitics.
4. Anti-inflammatories.

In administering this chapter, the State Board shall, by rule or regulation, specify those acts, services, procedures and practices which constitute the "practice of optometry" within the definitions of this section.

(c) For purposes of disability insurance, workers' compensation, standard health and accident, sickness and other insurance policies, programs and plans, if the optometrist is authorized by law to perform the particular services, the optometrist shall be entitled to compensation for services under the said programs. Individuals entitled to such services shall have freedom to choose between any optometrist and any physician skilled in diseases of the eye.

(d) The practice of optometry also includes services provided by Telemedicine and participation in Telehealth. For the purposes of this section, “Telehealth” is defined as the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation. “Telemedicine” means a form of Telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation. “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth. “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties. “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

Section 13. Amend § 2502, Title 24 of the Delaware Code as follows:

(6) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(17) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(21) "Practice of pharmacy" means the interpreting, evaluating, and dispensing of a practitioner's or prescriber's order. The practice of pharmacy includes, but is not limited to, the proper compounding, labeling, packaging, and dispensing of a drug to a patient or the patient's agent, and administering a drug to a patient. The practice of pharmacy includes the application of the pharmacist's knowledge of pharmaceutics, pharmacology, pharmacokinetics, drug and food interactions, drug product selection, and patient counseling. It also includes:

a. Participation in drug utilization and/or drug regimen reviews;

b. Participation in therapeutic drug selection, substitution of therapeutically equivalent drug products;

c. Advising practitioners and other health care professionals, as well as patients, regarding the total scope of drug therapy, so as to deliver the best care possible;

d. Monitoring drug therapy;

e. Performing and interpreting capillary blood tests to screen and monitor disease risk factors or facilitate patient education, the results of which must be reported to the patient's health care practitioner; screening results to be reported only if outside normal limits;

f. Conducting or managing a pharmacy or other business establishment where drugs are compounded or dispensed;

g. The use of Telemedicine and participation in Telehealth in a manner deemed appropriate by regulation; and

h. Administration of injectable medications, biologicals and adult immunizations pursuant to a valid prescription or physician-approved protocol approved by a physician duly licensed in the State under subchapter III of Chapter 17 of this title. Pharmacists shall request which physician or physicians and notify the physician or physicians as designated by the patient of such administration within 24 hours. The notice shall include the patient's name, the name of the immunizations, inoculations or vaccinations administered, and the date of administration and may be submitted by phone, fax, post or electronically. Upon request a copy of the protocol will be made available to the designated physician or physicians without costs.

(22) "Practitioner" or "prescriber" means an individual who is authorized by law to prescribe drugs in the course of professional practice or research in any state.

(23) "Preceptor" means a licensed pharmacist who is approved by the Board to supervise an intern.

(24) "Prescription drug" or "legend drug" means a drug required by federal or state law or regulation to be dispensed only by a prescription, including finished dosage forms and active ingredients, subject to § 503(b) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 353(b)).

(25) "Prescription drug order" or "prescription" means the lawful written or verbal order of a practitioner for a drug.

(26) "Reference product" means a product as defined by the Federal Food and Drug Administration pursuant to 42 U.S.C. § 262.

(27) "State" means the State of Delaware.

(28) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(28) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of pharmacy.

(29) "Substitution" or "substitute" means pharmacist's selection of prescriber authorized generic or therapeutically equivalent prescription medications or, in the case of biologicals, pharmacist selection of an interchangeable biological product in place of the prescribed product. Generic substitution means a drug that is the same active ingredient, equivalent in strength to the strength written on the prescription and which is classified as being therapeutically equivalent to another drug in the latest edition or supplement of the Federal Food and Drug Administration (FDA) Approved Drug Products with Therapeutic Equivalence Evaluations, sometimes referred to as the "Orange Book."

(30) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(31) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

Section 14. Amend § 3002, Title 24 of the Delaware Code as follows:

(1) "Board" means the Board of Mental Health and Chemical Dependency Professionals.

(2) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(2) "Division" means the Division of Professional Regulation of the State of Delaware.

(3) "Excessive use or abuse of drugs" means any use of narcotics, controlled substances or illegal drugs without a prescription from a licensed physician, or the abuse of alcoholic beverage such that it impairs a licensee's ability to perform the work of a licensed mental health or chemical dependency professional.

(5) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(4) "Person" means a corporation, company, association and partnership, as well as an individual.

(7) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(5) "Substantially related" means the nature of the criminal conduct, for which a person was convicted, has a direct bearing on the fitness or ability of the person to perform 1 or more of the duties or responsibilities of a licensed mental health or chemical dependency professional.

(6) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(7) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

Section 15. Amend § 3031, Title 24 of the Delaware Code as follows:

(1) "Direct supervision" is face to face consultation, on a regularly scheduled basis, between a licensed associate counselor of mental health (LACMH) and a licensed professional counselor of mental health (LPCMH) as required by the nature of the work of the LACMH. The supervising LPCMH is responsible for insuring that the extent, kind and quality of the services rendered by the LACMH are consistent with the person's education, training and experience.

(2) "Licensed associate counselor of mental health" (LACMH) is an individual licensed as an associate counselor of mental health under this chapter who is obtaining experience under the professional direct supervision

of a LPCHM or other health professional approved by the Board for the purpose of becoming licensed as a professional counselor of mental health.

(3) "Licensed professional counselor of mental health" (LPCMH) is an individual licensed as a professional counselor of mental health under this chapter who publicly offers to render to individuals, groups, organizations or the general public a service involving the application of clinical counseling principles, methods or procedures and the diagnosis and treatment of mental and emotional disorders to assist individuals in achieving more effective personal and social adjustment. Such services may be provided through the use of Telemedicine in a manner deemed appropriate by regulation. Services also may include participation in Telehealth as further defined in regulation.

Section 16. Amend § 3041, Title 24 of the Delaware Code as follows:

(1) "Chemical dependency professional" is a person who uses addiction counseling methods to assist an individual or group to develop an understanding of alcohol and drug dependency problems, define goals, and plan action reflecting the individual's or group's interest, abilities and needs as affected by addiction problems. Such services may be provided through the use of Telemedicine in a manner deemed appropriate by regulation. Services also may include participation in Telehealth as further defined in regulation.

(2) "Counseling experience" is a formal, systematic process that focuses on skill development and integration of knowledge related to addiction counseling and reflects the accumulation of hours spent providing substance abuse counseling services while under the supervision of an approved clinical supervisor.

(3) "Licensed chemical dependency professional" is a person who holds a current, valid license issued pursuant to this chapter.

(4) "Professional counseling experience" is the accumulation of hours spent providing chemical dependency counseling services in a substance abuse counseling setting, including face to face interaction with clients and other services directly related to the treatment of clients.

(5) "Supervised counseling experience" is the overseeing of a supervisee's application of chemical dependency counseling principles, methods or procedures to assist clients in achieving more effective personal and social adjustment.

(6) "Uncompensated addictions services" are services offered to chemical dependent individuals free of charge.

Section 17. Amend § 3051, Title 24 of the Delaware Code as follows:

(a) "Direct supervision" is face to face consultation, on a regularly scheduled basis, between a licensed associate marriage and family therapist (LAMFT) and a licensed marriage and family therapist (LMFT) as required by the nature of the work of the LAMFT. The supervising LMFT is responsible for insuring that the extent, kind and quality of the services rendered by the LAMFT are consistent with the person's education, training and experience.

(b) "Licensed associate marriage and family therapist" (LAMFT) is an individual licensed as an associate marriage and family therapist under this chapter who is obtaining experience under direct professional supervision for the purpose of becoming licensed as a marriage and family therapist (LMFT).

(c) "Licensed marriage and family therapist" (LMFT) is an individual licensed as a marriage and family therapist under this chapter who offers to individuals, couples, families or groups professional marriage and family services either directly to the general public or through public or private organizations.

(d) "Marriage and family therapy services" includes the diagnosis and treatment of mental and emotional disorders, whether cognitive, affective, or behavioral, within the context of interpersonal relationships, including marriage and family systems, and involves the professional application of psychotherapy, assessment instruments, counseling, consultation, treatment planning, and supervision in the delivery of services to individuals, couples and families. Such services may be provided through the use of Telemedicine in a manner deemed appropriate by regulation. Services also may include participation in Telehealth as further defined in regulation.

(e) "Professional direct supervision" is supervision by a licensed marriage and family therapist, or an individual holding the "approved supervisor" designation from the American Association for Marriage and Family Therapy (AAMFT) or a candidate for the "approved supervisor" designation who is acceptable to the Board.

Section 18. Amend § 3502, Title 24 of the Delaware Code as follows:

(2) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(4) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(4) "Practice of psychology" shall mean the observation, description, evaluation, interpretation and/or modification of human behavior by the application of psychological principles, methods, and/or procedures, for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior, and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health.

The practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, abilities, interests, aptitudes and neuropsychological function; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy; diagnosis and treatment of mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury or disability; and psychoeducational evaluation, therapy, remediation, and consultation. Psychological services may be rendered to individuals, families, groups, organizations, institutions and the public. The practice of psychology shall be construed within the meaning of this definition without regard to whether or not payment is received for services rendered.

The practice of psychology may be provided through the use of Telemedicine in a manner deemed appropriate by Regulation. Services also may include participation in Telehealth as further defined in regulation.

a. "Psychological testing" shall mean, but not be limited to: Administration and interpretation of standardized intelligence and neuropsychological tests which yield an intelligence quotient and/or are the basis for a diagnosis of organic brain syndromes for the purposes of classification and/or disability determination; and

b. The administration and interpretation of psychological tests which are the basis of a diagnosis of mental or emotional disorder.

(5) "Psychological assistant" shall mean a person who is registered with the Board to perform certain functions within the practice of psychology, only under the direct supervision of a supervising psychologist, and who is authorized by the Board to use the title "psychological assistant." The Board in its rules and regulations will specify the arrangements for supervision by the licensed psychologist.

(6) "Psychologist" shall mean a person who makes representations to the public by any title or description of services incorporating the words "psychology," "psychological," "psychologist," or who engages in the practice of psychology.

(9) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(7) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of psychology.

(8) "Supervising psychologist" shall mean a psychologist licensed in this State who has practiced as a licensed psychologist for 2 years in this or any other jurisdiction and who applies to the Board for the registration of a psychological assistant.

(9) "Supervision" shall mean the face-to-face consultation between the registered psychological assistant and the supervising psychologist as required by the nature of the work of the psychological assistant. The supervising psychologist is responsible for insuring that the extent, kind and quality of the services rendered by the psychological assistant are consistent with the person's education, training and experience.

(10) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider

consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(11) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

Section 19. Amend § 3802, Title 24 of the Delaware Code as follows:

(2) "Dietetic and nutrition therapy" shall mean the scope of services utilized in the delivery of preventive nutrition services and/or nutrition therapy. It involves an assessment of the individual's specific nutritional needs and the development and implementation of an intervention plan. The intervention plan can include nutrition education, counseling, administration and monitoring of specialized nutrition support and/or referrals for additional services. This application and practice of "dietetic and nutrition therapy" shall include the following Scope of Practice:

Scope of Practice:

(a) Nutrition assessment to include the establishment of nutritional care plans, including the development of nutritional related priorities, goals and objectives.

(b) Provision of nutrition counseling or education as components of preventive, and restorative health care.

(c) Evaluation and maintenance of appropriate standards of quality in food and nutrition.

(d) Evaluation and education of nutrient-drug interactions.

(e) Interpreting and recommending interventions to meet nutrient needs relative to individual health status, including but not limited to medically prescribed diets, tube feedings and specialized intravenous solutions.

(f) Development, administration, evaluation and consultation regarding nutritional care standards.

(g) Conduct independent research or collaborate in research areas including, but not limited to food and pharmaceutical companies, universities and hospitals by directing or conducting experiments to answer critical nutrition and food science questions and develop nutrition recommendations for the public.

(h) Direct supervision of registered dietetic technicians.

(i) The use of Telemedicine in a manner deemed appropriate by regulation. This also may include participation in Telehealth as further defined in regulation.

(3) "Dietetics/nutrition" shall mean the integration and application of principles derived from the sciences of food, nutrition, biochemistry, physiology and behavior as an integral part of health care delivery to achieve and maintain a person's health throughout the life cycle. Its application to health care is both preventive and in response to an illness, injury or condition. The application of dietetics/nutrition to health care shall be called "dietetic and nutrition therapy." The terms "dietetics" and "nutrition" are used interchangeably in this chapter.

(4) "Dietitian" and/or "nutritionist" shall mean a person who engages in the provision of nutrition services. The terms "nutritionist" and "dietitian" are used interchangeably in this chapter.

(8) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(9) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(5) "L.D.N." shall be the abbreviation for the title "Licensed Dietitian/Nutritionist".

(6) "License" shall mean any document which indicates that a person is currently licensed by the Board of Dietetics/Nutrition.

(7) "Licensed Dietitian/Nutritionist" shall mean a person holding a current license under this chapter.

(5) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(8) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the provision of dietetics/nutrition therapy services.

(9) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(10) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

Section 20. Amend § 3902, Title 24 of the Delaware Code as follows:

(1) "Board" shall mean the Board of Clinical Social Work Examiners.

(2) "Clinical social work" shall mean the application of social work theory and methods, which may include the person-in-environment perspective, to the assessment, diagnosis, prevention and treatment of biopsychosocial dysfunction, disability and impairment, including mental and emotional disorders, developmental disabilities and substance abuse. The application of social work method and theory includes, but is not restricted to, assessment (excluding administration of the psychological tests which are reserved exclusively for use by licensed psychologists pursuant to Chapter 35 of this title), diagnosis, treatment planning and psychotherapy with individuals, couples, families and groups, case management, advocacy, crisis intervention and supervision of and consultation about clinical social work practice. Such application and services may be provided through the use of Telemedicine in a manner deemed appropriate by regulation. Services also may include participation in Telehealth as further defined in regulation.

(3) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(3) "Independent practice" means the practice of clinical social work services by a clinical social work practitioner who assumes responsibility for the nature and quality of the services provided to the client in exchange for direct payment or third-party payment.

(4) "Licensed clinical social worker" shall mean any individual duly licensed under this chapter.

(5) "Practitioner," as used in this chapter, shall mean any individual engaged in the practice of clinical social work.

(6) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(7) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(6) "Substantially related" means the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to clinical social work.

(7) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider

consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(8) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a licensee practicing within his or her scope of practice as would be practiced in-person with a patient and with other restrictions as defined in regulation.

Section 21. Amend Chapter 35 of Title 18 of the Delaware Code to add new “§ 3571R” as follows:

§ 3571R. Telemedicine.

(a) As used in this section:

(1) “Distant site” means a site at which a health care provider legally allowed to practice in the state is located while providing health care services by means of telemedicine or telehealth.

(2) “Originating site” means a site in Delaware at which a patient is located at the time health care services are provided to him or her by means of telemedicine or telehealth, unless the term is otherwise defined with respect to the provision in which it is used; provided, however, notwithstanding any other provision of law, insurers and providers may agree to alternative siting arrangements deemed appropriate by the parties.

(3) “Store and forward transfer” means the transmission of a patient’s medical information either to or from an originating site or to or from the provider at the distant site, but does not require the patient being present nor must it be in real time.

(4) “Telehealth” means the use of information and communications technologies consisting of telephones, remote patient monitoring devices or other electronic means which support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services as described in regulation.

(5) “Telemedicine” means a form of telehealth which is the delivery of clinical health care services by means of real time two-way audio, visual, or other telecommunications or electronic communications, including the application of secure video conferencing or store and forward transfer technology to provide or support healthcare delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient’s health care by a health care provider practicing within his or her scope of practice as would be practiced in-person with a patient, and legally allowed to practice in the state, while such patient is at an originating site and the health care provider is at a distant site.

(b) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telemedicine.

(c) Each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for the cost of such health care services provided through telehealth as directed through regulations promulgated by the Department.

(d) An insurer, health service corporation, or health maintenance organization 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 health care provider and a patient for services appropriately provided through telemedicine services.

(e) An insurer, health service corporation, or health maintenance organization shall reimburse the treating provider or the consulting provider for the diagnosis, consultation, or treatment of the insured delivered through telemedicine services on the same basis and at least at the rate that the insurer, health service corporation, or health

maintenance organization is responsible for coverage for the provision of the same service through in-person consultation or contact. Payment for telemedicine interactions shall include reasonable compensation to the originating or distant site for the transmission cost incurred during the delivery of health care services.

(f) No insurer, health service corporation, or health maintenance organization 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.

(g) The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on and after enactment of this section or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

(h) This section shall not apply to short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts, nor shall it contravene any telehealth requirements made in policies or contracts designed for issuance to persons eligible for coverage under Titles XVIII, XIX, and XXI of the Social Security Act, known as Medicare and Medicaid, or any other similar coverage under state or federal governmental plans.

Section 22. Amend Chapter 19 of Title 24 of the Delaware Code to include a new section "§1932" as follows:

§1932. Telemedicine

(a) Telemedicine shall not be utilized by an APRN with respect to any patient in the absence of an APRN-patient relationship.

(b) APRNs who utilize telemedicine shall, if such action would otherwise be required in the provision of the same service not delivered via telemedicine, ensure that a proper APRN-patient relationship is established which includes but is not limited to:

(1) fully verifying and authenticating the location and, to the extent possible, identifying the requesting patient;

(2) disclosing and validating the provider's identity and applicable credential(s);

(3) obtaining 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 subsection (b)(5);

(4) establishing a diagnosis through the use of acceptable medical practices, as 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) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and

(6) ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care; and

(7) providing a written visit summary to the patient.

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

(d) The APRN treating a patient through telemedicine must maintain a complete record of the patient's care which must follow all applicable state and federal statutes and regulations for recordkeeping, confidentiality, and disclosure to the patient.

(e) Telemedicine shall include, at such time as feasible and when appropriate, utilizing the Delaware Health Information Network (DHIN) in connection with the practice.

(f) Without a prior and proper patient-provider relationship, as provided in subsection (b)(5), providers are prohibited from issuing prescriptions solely in response to an Internet questionnaire, an Internet consult, or a telephone consult.

(g) Prescriptions made through telemedicine and under an APRN-patient relationship may include controlled substances, subject to limitations as set by the Board.

(h)This section does not apply to any of the following:

(1) informal consultation performed by a APRN outside the context of a contractual relationship and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;

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

(3) Episodic consultation by a medical specialist located in another jurisdiction who provides such consultation services on request to a person licensed in this state.

Section 23. This Act shall be effective on January 1 of the year after its enactment.

Approved July 07, 2015