

BILL NO. -

**THIRTY-THIRD LEGISLATURE OF THE UNITED STATES VIRGIN ISLANDS
REGULAR SESSION
2020**

An Act amending Title 27, Chapter 1, Subchapter IIa. Telemedicine §§ 45a — 45d, relating to telemedicine generally, that modernizes the Virgin Islands Telemedicine provisions and establishes a Telehealth Act, which includes Telemedicine and the standards that govern the practice of medicine and the provision of healthcare services using telehealth modalities. The Telehealth Act establishes licensing rules, standards of practice for telehealth providers, and authorizes telehealth providers to use telehealth to treat patients, in order to provide the Virgin Islands community with increased access to healthcare , consultation, recommendations, opinions, and follow up care options.

PROPOSED BY: The Governor

Be it enacted by the Legislature of the Virgin Islands:

SECTION 1. Title 27 Virgin Islands Code, Chapter 1, Subchapter IIa. Telemedicine, is renamed Telehealth Act, new sections are added, and sections 45a-45d are amended and renumbered as follows:

(1) Renaming Subchapter and adding a new Sections “45a-45s” to Subchapter IIa. and inserting the following new language:

“Subchapter IIa. Sections 45a-45s shall be known and may be cited as the Virgin Islands Telehealth Act

§ 45a. Telehealth Act Legislative Intent

The Legislature finds and declares all of the following:

- (a) Lack of primary care, specialty providers, and transportation continue to be significant barriers to access to health services in the Territory.
- (b) The U.S. Virgin Islands has difficulty attracting and retaining health professionals, as well as supporting local health facilities to provide a continuum of health care.
- (c) Many health care providers are isolated from mentors, colleagues, and the information resources necessary to support them personally and professionally.
- (d) It is the intent of the Legislature to create a parity of telehealth with other health care delivery modes; to actively promote telehealth as a tool to advance stakeholders’ goals regarding health status and health system improvement and to create opportunities and flexibility for telehealth to be used in new models of care and system improvements.
- (e) Telehealth is part of a multifaceted approach to address the problem of inadequate provider distribution and the development of health systems by improving communication capabilities and providing convenient access to up-to-date information, consultations, and other forms of support.

1 (f) The use of information and telecommunication technologies to deliver health services
2 has the potential to reduce costs, improve quality, change the conditions of practice, and
3 improve access to health care.

4 (g) Telehealth will allow health care providers to monitor, assess, supervise, train, consult,
5 and offer a wide range of services that would not be otherwise available to all patients in
6 the Territory.

7 (g) Telehealth will assist in maintaining or improving the physical and economic health
8 of our communities by keeping the source of medical care in the local area, strengthening
9 the health infrastructure, and preserving health care-related jobs.

10 (h) Consumers of health care will benefit from telehealth in many ways, including
11 expanded access to providers, faster and more convenient treatment, better continuity of
12 care, reduction of lost work time and travel costs, and the ability to remain with support
13 networks.

14 (i) The implementation of Telehealth laws and use permits the continuity of medical
15 services in the event of disasters and catastrophes, especially in island communities
16 where geography plays a role in medical care.

17 (i) It is the intent of the Legislature that the fundamental health care provider-patient
18 relationship can not only be preserved, but also augmented and enhanced, through the use
19 of telehealth as a tool to be integrated into practices.

20 (j) Without the assurance of payment and the resolution of legal and policy barriers, the
21 full potential of telehealth will not be realized.

22 (l) This act shall be known as the “Virgin Islands Telehealth Act of 2020.”
23

24 § 45b. Definitions

25 For purposes of this Act, the following terms shall have the meaning and scope stated
26 below, unless clearly stated otherwise:
27

28 (a) “Asynchronous telemedicine” mean the “store-and-forward” technique where a patient,
29 physician or health care provider collects medical history, images, and pathology
30 reports and then sends it to a specialist physician for diagnostic and treatment expertise.
31 It captures clinically important digital samples (e.g., still images, video, audio, text
32 files) and relevant data in one location and subsequently transmits these files for
33 interpretation at a remote site by a physician or health care providers without requiring
34 the simultaneous presence of the patient involved.
35

36 (b) “Board” means all medical boards established by Virgin Islands Law and boards
37 specified under Title 27 Chapters 1-2, including the Virgin Islands Board of Medical
38 Examiners, Medicine and Related Professions, Dental, Nursing, Pharmacy, Optometry,
39 Physical Therapy, Chiropractic, Podiatry, and Psychology.
40

41 (c) “Department” means the Virgin Islands Department of Health.
42

43 (d) “Distant site” means the site where the physician or health care provider is providing
44 medical services to a patient at a distance or consulting with a patient's provider by
45 means of telemedicine or telehealth.

- 1
2 (e) “E-Consults” mean asynchronous health record consultation services that provide an
3 assessment and management service in which the patient's treating health care
4 practitioner (i.e., attending or primary) requests the opinion and/or treatment advice of
5 another health care practitioner (i.e., consultant) with specific specialty expertise to
6 assist in the diagnosis and/or management of the patient's health care needs without
7 patient face-to-face contact with the consultant. E-consults between health care
8 providers are designed to offer a coordinated multidisciplinary case reviews, advisory
9 opinions, and recommendations of care.
10
11 (f) “Health benefit policy” means any individual or group plan, policy, or contract for
12 health care services issued, delivered, issued for delivery, executed, or renewed in this
13 Territory, including, but not limited to, those contracts executed by the Territory on
14 behalf of state employees and any health insurance plan.
15
16 (g) “Interactive health communications” means communication using multimedia
17 communications equipment that includes, at a minimum, audio and video equipment
18 permitting two-way, real time interactive communication between the patient and
19 distant site physician or practitioner. Telephones, facsimile machines, and electronic
20 mail systems do not meet the definition of an interactive telecommunications system.
21
22
23 (h) “Insurer” means an accident and sickness insurer, fraternal benefit society, hospital
24 service corporation, medical service corporation, health care corporation, health
25 maintenance organization, preferred provider organization, provider sponsored health
26 care corporation, managed care entity, or any similar entity authorized to issue contracts
27 under this title or to provide health benefit policies.
28
29 (i) “Licensure for Telemedicine” means a telemedicine license or any current Virgin
30 Islands physician licensure, including unrestricted, institutional, special restricted and
31 special unrestricted.
32
33 (j) “Mobile Health (mHealth)” means Smartphone apps designed to foster health and well-
34 being, that offer a wide range of health-related help, including apps that send targeted
35 text messages to encourage healthy behaviors, alerts about disease outbreaks, and
36 reminders that help patients adhere to specific care regimens. MHealth uses cameras,
37 microphones, or other sensors and transducers to capture vital signs and document
38 RPM.
39
40
41 (k) “Originating site” means the site of the patient in this Territory at the time health care
42 services are provided by means of telemedicine or telehealth, unless the term is
43 otherwise defined by the parties and provided, however, that notwithstanding any other

1 provision of law, insurers and providers may agree to alternative siting arrangements
2 deemed appropriate by the parties.

- 3 (l) "Provider-patient relationship" means any provider-patient relationship that is a
4 consensual relationship in which the patient or surrogate knowingly seeks the
5 provider's assistance and in which the provider knowingly accepts the person or patient.
6 as a patient. This relationship may be established through telehealth.
7
- 8 (m) "Registration" or "Certification to Practice Telehealth" means the certification obtained
9 after registration pursuant section 45g of this subchapter, or any authorization issued to
10 Telehealth Providers for the practice of medicine through telehealth in the Virgin
11 Islands.
12
- 13 (n) "Remote Patient Monitoring (RPM)" means personal health and medical data
14 collection from a patient in one location, which is then transmitted to a clinician in a
15 different location, which helps clinicians and patients manage chronic illness, and
16 uses devices, such as Holter monitors, to transmit information, including vital
17 statistics such as - heart rate, blood pressure, and blood oxygen levels.
18
- 19 (o) "Store and forward transfer" means the transmission of a patient's medical information
20 either to or from an originating site or to or from the provider at the distant site, but
21 does not require the patient being present nor must it be in real time.
22
- 23 (p) "Synchronous interaction" means a real-time interaction between a patient located at
24 the originating site and a health care provider located at a distant site.
25
- 26 (q) "Telehealth" means the use of electronic information and telecommunication
27 technologies to support and promote long-distance clinical health care, patient and
28 professional health-related education, public health and health administration, as defined
29 by the Centers for Disease Control, Health Resources and Services Administration and
30 the Office of the National Coordinator, and includes the use of synchronous (Live video)
31 or asynchronous (store and forward) telecommunications technology by a telehealth
32 provider to provide health care services such as, but not limited to - assessment,
33 diagnosis, health care provider consultation, treatment, and monitoring of a patient;
34 transfer of medical data; patient and professional health-related education; public health
35 services and mobile health.
36
- 37 (r) "Telehealth provider" means a provider using Telehealth to provide telemedicine,
38 medical or health services, and includes but is not limited to all the following providers:
39 Physicians, Nurse Practitioners, Certified Nurse Mid-wives, Psychiatrists, certified
40 nurse anesthetists, Psychiatric clinical nurse practitioner, Marriage and family
41 therapist/counselor, school psychologist, substance abuse practitioner, clinical nurse
42 specialists, clinical psychologists, physician assistants, speech therapists, clinical nurse
43 specialist, audiologists, physical therapists, social workers, clinical social workers,

1 dentist, dental hygienist, dental therapist, mental health professionals, pharmacist,
2 registered dietitians, nutritionist, podiatrist, occupational therapist, naturopathic
3 practitioners, pharmacists, audiologist, and allied health professionals as specified by
4 the Allied Health Board or Virgin Islands Department of Health in the absence of a
5 board.

- 6
- 7 (s) “Telehealth Site” means the facility which hosts patient access to a remote provider
8 and includes but is not limited to: Physician offices, health care provider
9 offices/homes, Federally Qualified Health Centers, Hospitals, Department of Health,
10 skilled nursing homes, behavioral health facilities, youth rehabilitation facilities,
11 Urgent Care Centers, Wellness Centers, Supportive Housing Facility, Senior living,
12 and Community-based substance abuse center.
13
- 14 (t) “Telemedicine” means the practice of medicine or delivery of clinical services using
15 electronic communication, information technology, or other means between a physician
16 or health care provider in one location and a patient in another location, with or without
17 an intervening health care provider. Telemedicine refers to the interactive health
18 communications with a health care provider on both ends of the exchange and is a form
19 of Telehealth used by a Telehealth Provider to provide treatment and prescribe
20 medicine or medication through electronic communication, information technology.
21 The practice of Telemedicine by Telehealth Providers and is required to take into
22 account aspects defined by the Centers for Medicare Services (CMS) so consultations
23 given to patients by Telehealth Providers’ qualify for reimbursement by Medicare,
24 Medicaid, and other health insurance plans.
25
- 26 (u) “Telemedicine Services Agreement” means a cooperative agreement within the
27 Territory or between a hospital or licensed physician in the Territory and one outside
28 the Territory for improved health care delivery, including but not limited to tele-
29 stroke/neurology and tele-radiology, in order to decrease patient and physician travel
30 and enhance inter-facility cooperation.
31

32 § 45c. Telehealth Act Scope

- 33 1) The Telehealth Act allows Telehealth Providers to use services, which include but are
34 not limited to the following:
- 35 (a) Consultations between physicians and other health care providers or the
36 transmission and review of digital images, pathology specimens, test results, or
37 other medical data by physicians or health care providers related to the care of
38 patients in this Territory.
39
- 40 (b) Treating a patient with an emergency medical condition or treating a patient during
41 a state of emergency as defined by any one of the following:
- 42 i. “emergency medical condition” means a medical condition manifesting
43 itself by acute symptoms of sufficient severity that the absence of immediate
44 medical attention will result in serious jeopardy to patient health, serious

1 impairment to bodily functions, or serious dysfunction of a body organ or
2 part.

3 ii. "state of emergency" means any declaration by the Governor, President, or
4 department or agency authorized (including health) requiring emergency
5 management and that is deemed a major disaster or imminent threat to
6 health or welfare.

7 iii. "pursuant to 27 V.I.C. § 50s, 27 V.I.C. § 1651, 27 V.I.C. § 15" means
8 participation or exemptions made for treating a patient during a disaster,
9 emergency, or declaration/state of emergency.

10
11 (c) Treating and providing medical and health care services to a patient by
12 telecommunications or electronic communications and facilitating the assessment,
13 diagnosis, education, care management, and self-management of a patient's health
14 care by a Telehealth Provider practicing within his or her scope of practice; such
15 services that can be provided through a Telehealth Provider shall include, but are
16 not limited to:

- 17 i. prescribing medicine
- 18 ii. immediate attention from a specialist
- 19 iii. immediate diagnoses by a specialist in a particular area or region
- 20 iv. specialty care
- 21 v. distance education for students of nursing and medical schools
- 22 vi. digital records of radiologic examinations and ultrasounds
- 23 vii. medical emergencies care

24
25 (a) Telehealth and Telemedicine should not be used for any condition where an
26 in-person exam is required because of severe symptoms, certain protocol-
27 driven procedures, or aggressive interventions. The Centers for Medicare and
28 Medicaid Services (CMS) approved Telehealth services and Telehealth
29 Medical Specialties do not require physical patient-provider relationships.

30
31 § 45d Telemedicine Licensure

32 The Virgin Islands Board of Medical Examiners shall regulate the practice of
33 telemedicine in the Territory in accordance with the provisions of this subchapter and the
34 following:

- 35 (a) No person shall practice or attempt to practice medicine at a distant site
36 between the Virgin Islands and a foreign jurisdiction.
 - 37 (b) No person shall practice or attempt to practice medicine at a distant site
38 between the Virgin Islands and another United States jurisdiction without first
39 complying with the provisions of this subchapter and without being a holder,
40 of a Virgin Islands medical license.
 - 41 (c) Telemedicine services in the Territory shall operate in accordance with current
42 accepted core standards for telemedicine operations.
- 43
44
45

1 § 45e Regulation of Telemedicine Licensure

2 The Board of Medical Examiners may establish regulations for telemedicine licensure as
3 follows:

4 (a) The Board of Medical Examiners shall issue a telemedicine license to
5 authorize certain physicians, who hold a full and unrestricted license to practice
6 medicine in another state or territory of the United States, to provide telemedicine
7 services in the Virgin Islands. Telemedicine licenses shall be without private
8 practice rights and without subversion of reciprocity. Any healthcare professional
9 licensed in the Virgin Islands may practice telemedicine without restriction.

10 (b) [Deleted].

11 (c) The Board of Medical Examiners shall establish by rules and regulations the
12 requirements for telemedicine licensure in accordance with this subchapter,
13 provided that the rules and regulations include the following:

14 (1) A physician holding only a telemedicine license under this subchapter
15 shall not open an office in the Virgin Islands, shall not meet with patients
16 in the Virgin Islands, and shall not receive calls from patients in the Virgin
17 Islands.

18 (2) The physician, when examining a patient by telemedicine, shall
19 establish a bona fide physician-patient relationship by:

20 (A) Establishing a relationship and coordinating with the patient's
21 Virgin Islands-licensed healthcare professional.

22 (B) Establishing a diagnosis through the use of accepted medical
23 practices including, but not limited to, patient history, mental status
24 and appropriate diagnostic and laboratory testing.

25 (C) Discussing with the patient any diagnosis as well as the risks
26 and benefits of various treatment options.

27 (D) Ensuring the availability for appropriate follow-up care.

28 (E) Fulfilling any other requirements as deemed appropriate and
29 necessary by the Board of Medical Examiners.

30 (d) Any physician licensed to practice telemedicine in accordance with this
31 subchapter, shall be subject to the provisions of this subchapter, the jurisdiction of
32 the Board of Medical Examiners, applicable Virgin Islands law, and the
33 jurisdiction of the courts of the Virgin Islands with respect to providing medical
34 services to Virgin Islands residents.

35 (e) The Department of Health and the Territory's hospitals and medical centers
36 and Virgin Islands-licensed health care professionals are authorized to bill third-
37 party payers for consultations and follow-up care provided by licensed providers
38 of telemedicine services.

39
40 § 45f Out-of-Territory Telehealth Providers

41 Except as provided in 45e, a health care professional not licensed in this Territory may
42 provide health care services to patients located in this Territory using telehealth if the
43 health care professional registers with the applicable board, or the department of health if
44 there is no board, and provides health care services within the applicable scope of
45 practice established by Virgin Islands law.
46

1 § 45g. Registration of Telehealth Providers

- 2 1) The DOH will assess the number of Telehealth providers in the Territory on an annual
3 basis and list all Telehealth providers on their website. All health care providers in the
4 Territory practicing Telehealth shall register as Telehealth provider by completing a
5 one-page form with the DOH, established by the DOH.
6 a. Registration of health care providers in the Territory as Telehealth providers
7 shall take place by January 2021 and continue thereafter.
8
9 2) If not currently licensed as a health care provider in the Territory, registration as a
10 Telehealth provider shall be completed at the time of licensing. Applicants seeking
11 licensure to any Board under Title 27 can be, upon Board approval of their application,
12 registered as Telehealth provider by the Board on a form established by the Board.
13 a. The Board shall provide the DOH all Telehealth providers registered by the
14 Board.
15 i. Applicants that do not have a Board under Title 27 shall register as a
16 Telehealth provider through DOH at the time of licensing, on a form
17 established by DOH.
18 3) A Patient-Telehealth Provider Relationship can be established via Telehealth.
19

20 § 45h. Exemptions

21 A health care professional who is not registered to provide health care services in this
22 Territory but who holds an active license to provide health care services in another state or
23 jurisdiction, and who provides health care services using Telehealth to a patient located in
24 this Territory, is not subject to the registration requirement under section (45g) if the
25 services are provided:

- 26 1) In response to an emergency medical condition or state of emergency as defined in
27 section (45c); or
28
29 2) In consultation with a health care professional licensed in this Territory who has
30 ultimate authority over the diagnosis and care of the patient.
31

32 § 45i. Telehealth Medical Malpractice and Liability Insurance

33 A physician or health care provider registered as a Telehealth provider and providing or
34 practicing Telehealth under this subchapter shall maintain medical malpractice or
35 professional liability coverage that includes coverage of financial responsibility for
36 Telehealth services provided to patients in this Territory and in the health care provider's
37 state, District of Columbia or any other territory of the United States.
38

39 § 45j. Informed Consent

40 Prior to the delivery of health care via telehealth, the healthcare provider initiating the use
41 of telehealth shall inform the patient about the use of telehealth and obtain verbal or
42 written consent from the patient for the use of telehealth as an acceptable mode of
43 delivering health care services and public health. The consent shall be documented in the

1 patient's medical record. In regards to informed consent, Telehealth providers must meet
2 the following requirements:

- 3 (a) No medical treatment may be administered to a client without informed consent except
4 in an emergency situation or circumstances otherwise authorized by law.
- 5 (b) Treatment may be initiated without informed consent if there is documentation within
6 the client's health record that authorizes treatment or an emergency exists where there
7 is an unanticipated condition in which immediate action is necessary and it is
8 impracticable to obtain the required consent for preservation of life or the prevention
9 of serious bodily harm to the client or others or to alleviate severe physical pain;
10 provided that any action taken by the Telehealth Provider without informed consent is
11 within the customary practice of Telehealth providers of good standing in similar
12 circumstances.
- 13 (c) It is the responsibility of a Telehealth provider to determine what information a
14 reasonable person in the patient's condition and circumstances would consider material
15 to a decision to accept or refuse a proposed treatment or procedure. The disclosure of
16 any material information and obtaining informed consent shall be the responsibility of
17 the Telehealth Provider.
- 18 (d) Informed consent must include an explanation by a physician of the patient's right to
19 refuse or accept medical treatment.
- 20 (e) Once an initial informed consent is obtained which establishes a provider-patient
21 relationship, a Telehealth provider is not required to obtain informed consent each
22 time a Telehealth visit is conducted or a treatment or procedure is administered unless
23 such treatment or procedure was not covered by the initial informed consent or
24 material circumstance or risks change.
- 25 (f) If the patient refuses consent and the use of Telehealth services, no Telehealth provider
26 may render said service or bill the patient for said consultation, once that service is
27 refused
- 28 (g) If the patient is a minor or a person who is adjudicated incompetent, these
29 requirements shall apply to his conservator, guardian, or legal representative.
- 30 (h) The failure of a healthcare provider to comply with this section shall constitute
31 unprofessional conduct.

32
33
34 § 45k. Internet Diagnosis and Treatment

- 35 1) When a physician or health care provider uses Telehealth or Telemedicine to diagnose
36 and/or treat a patient located in this Territory, the physician or health care provider may
37 not provide treatment recommendations, including issuing a prescription, unless the
38 following requirements are met:
- 39 a. The physician or health care provider is licensed to practice medicine and
40 registered as a Telehealth Provider as required under section (45d and 45g)
- 41 b. The physician's or health care provider's name and contact information have
42 been made available to the patient.
- 43 c. Informed consent as required under section (45j) is obtained from the patient
- 44 d. A documented patient evaluation has been performed

- 1 i. A patient evaluation is required to meet or exceed the standard of
2 minimally competent medical practitioner
3 e. A patient health care record is prepared and maintained
4
- 5 2) A Telehealth provider may use Telehealth to perform a patient evaluation. During an
6 initial patient visit a Telehealth provider may conduct a patient evaluation sufficient to
7 diagnose and treat the patient, and the Telehealth provider is required to survey the
8 patient's medical history or conduct a questionnaire examination of the patient before
9 using Telehealth to provide health care services to the patient.
10
- 11 3) Telehealth or telemedicine can be provided through electronic means, but it is the intent
12 of the Telehealth Act to mitigate geographic discrimination in the delivery of health
13 care by recognizing the application of and payment for covered medical care provided
14 by means of telehealth only if such services are provided by a physician or by another
15 health care practitioner or professional acting within the scope of practice of such
16 physician or health care provider.
17 a. A physician or health care provider licensed to practice within his or her scope
18 of practice, shall be held to the same standards of practice and conduct,
19 including patient confidentiality and record keeping, regardless of whether
20 health care services are provided in person or by Telehealth.
21
- 22 4) A telehealth provider has the duty to practice in a manner consistent with his or her
23 scope of practice and the prevailing professional standard of practice for a health care
24 professional who provides in-person health care services to patients in this Territory.
25
- 26 5) A physician or health care provider licensed to practice medicine or who provides
27 health care services by telehealth is responsible for the quality and safe use of
28 equipment and technology that is integral to patient diagnosis and treatment. The
29 equipment and technology used by the physician or health care provider to provide
30 health care services by telehealth must comply with the Health Information
31 Technology for Economic Health Act (HITECH) and HIPAA Privacy, Security and
32 Breach Notification Rules.
33 a. Providing treatment recommendations, including issuing a prescription, based
34 only on a static electronic questionnaire does not meet the standard of
35 minimally competent medical practice.
36
37
38

39 § 451. Patient Health Records

- 40 1) A telehealth provider shall document in the patient's medical record the health care
41 services rendered using Telehealth according to the same standard as used for in-person
42 services. Medical records, including video, audio, electronic, or other records generated
43 as a result of providing such services, are confidential and shall meet federal

1 requirements for Electronic Health Record (EHR) under the HITECH Act and HIPAA
2 Privacy, Security and Breach Notification Rules.

- 3
4 2) Any Telehealth Provider who holds a registration or is permitted to practice Telehealth
5 in accordance with the provisions of this Act shall be deemed to have consented to
6 produce any health record or any material or report as requested by the applicable
7 Virgin Islands Board or DOH if there is no Board, provided that such production does
8 not violate EHR, HITECH Act and HIPPA, and protects the confidentiality and rights
9 of the patient..

10
11 § 45m. Insurer

- 12 1) Each insurer proposing to issue a health benefit policy shall provide coverage for the
13 cost of health care services provided through Telehealth or Telemedicine.
14
15 2) An insurer shall not exclude a service for coverage solely because the service is
16 provided through telehealth unless the service is not appropriate for Telehealth.
17
18 3) Each insurer proposing to issue a health benefit policy shall provide coverage for the
19 cost of health care services provided through telehealth or telemedicine. No insurer
20 shall have the right to mandate which telemedicine platform is to be used in order to be
21 reimbursed. Furthermore, all insurers must reimburse for Telehealth and Telemedicine
22 services as long as the platform used is HIPAA Compliant.
23
24 4) An insurer shall reimburse the telehealth provider for the diagnosis, consultation, or
25 treatment of the insured delivered through Telehealth or Telemedicine services on the
26 same basis and at least at the rate that the insurer is responsible for coverage for the
27 provision of the same service through in-person consultation or contact.
28
29 5) Payment for Telehealth or Telemedicine interactions shall include reasonable
30 compensation to the originating or distant site for the transmission fees incurred
31 during the delivery of health care services, if applicable. The originating site is
32 eligible for a facility fee. Telehealth providers eligible for the originating and distant
33 site facility fee include but are not limited to:
34
35 i. Physicians
36 ii. Clinics
37 iii. Department of Health
38 iv. Federal Qualified Health Centers
39 v. Physician group practices
40 vi. Wellness Centers
41 vii. Hospitals
42 viii. Dental practice
43
44

- 1 6) No insurer shall impose any annual or lifetime dollar maximum on coverage for
2 telehealth or telemedicine services other than an annual or lifetime dollar maximum
3 that applies in the aggregate to all items and services covered under the policy, or
4 impose upon any person receiving benefits pursuant to this section any copayment,
5 coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other
6 durational benefit limitation or maximum for benefits or services, that is not equally
7 imposed upon all terms and services covered under the health benefit policy.
8
- 9 7) No insurer shall require the policy holder to use Telehealth services in lieu of in-person
10 consultation or contact.
11
- 12 8) Within 120 days after the enactment of this Act, every health benefit policy that is
13 issued, amended, or renewed shall include payment for services that are covered under
14 such health benefit policy and are appropriately provided through Telemedicine or
15 Telehealth in accordance with this section and generally accepted health care practices
16 and standards prevailing in the applicable professional community at the time the
17 services were provided. The coverage required in this Code section may be subject to
18 all terms and conditions of the applicable health benefit plan. Telehealth and
19 Telemedicine coverage will follow services recognized by CMS and the American
20 Medical Association (AMA)
21

22 § 45n. Rule Making Authority on the Practice of Telehealth and Telemedicine

23 The Board or DOH if there is no Board, is hereby empowered to implement rules and
24 regulations as are necessary to enforce the provisions of this Act or as required by the
25 practice of Telemedicine in the Virgin Islands. In regulating all that pertains to telehealth
26 and telemedicine, the Board or Department if there is no Board shall take into consideration
27 the comments, suggestions, and recommendations of academia, groups, and associations
28 that represent physicians and health care providers, without constituting a limitation to its
29 rule making authority over said matters.
30

31
32 §45o Telemedicine and Prescriptions

- 33 1) Under federal law and the Haight Online Pharmacy Consumer Protection Act of 2008
34 (Ryan Haight Act; P.L. 110-425) the practice of Telemedicine allows a health care
35 practitioner to prescribe a controlled substance via Telemedicine without performing
36 an in-person medical examination of the patient. Notwithstanding federal law,
37 telehealth providers can prescribe medications but are restricted under the Telehealth
38 Act from prescribing controlled substances according to the requirements of this
39 section.
40
- 41 2) A Telehealth provider may not use Telemedicine to prescribe a controlled substance
42 unless Drug Enforcement Administration (DEA) regulations are met and the controlled
43 substance is prescribed for the following:
44 a. The treatment of a psychiatric disorder;

- b. Inpatient treatment at a hospital;
- c. The treatment of a patient receiving hospice services;
- d. The treatment of a resident of a nursing home;
- e. Treatment approved by the Department of Health and the Board; and
- f. Treatment authorized under state of emergency or during an emergency medical condition.

- 3) The Department in conjunction with the Board of Medical Examiners may modify rules and procedures described under section 45e, as necessary to ensure that reimbursement for Telemedicine medical services is provided in a cost-effective manner and only in circumstances in which the provision of those services is clinically effective.

§ 45p Penalties

Any person who violates any of the provisions of this Act or any Regulations adopted thereunder shall be subject to fines or penalties, and any Telehealth Providers' registered to practice Telehealth may be revoked or suspended as determined by the Board or DOH. The DOH or Board shall promulgate the standards and enforcement for these fines or penalties through its rules and regulations no later than one (1) year from the enactment of this Act.

- 1) The Board, or DOH may take disciplinary action against Telehealth providers if they:
 - a. Are unregistered or are not licensed in violation of this Telehealth Act;
 - b. Fail to notify the applicable Board, or DOH, of any adverse actions taken against their license;
 - c. Have restrictions placed on or disciplinary action taken against their license in any state or jurisdiction and failed to report such action;
 - d. Violates any of the requirements of this Telehealth Act or rules and regulations promulgated in conjunction or compliance with this Telehealth Act;
 - e. Commits any act that constitutes grounds for disciplinary action.
- 2) Disciplinary action taken by a Board, or DOH may include suspension or revocation of the provider's registration or the issuance of a reprimand or letter of concern. A suspension may be accompanied by a corrective action plan as determined by the Board, or DOH, the completion of which may lead to the suspended registration being reinstated according to rules adopted by the Board, or DOH.

§ 45q Severability

If any Section or provision of this Act were held to be null or unconstitutional by a competent court with jurisdiction, said holding shall not affect or invalidate the remaining provisions of this Act. The effect of said holding shall be limited to the paragraph, section, part, or provision thus held to be null or unconstitutional.

§ 45r Conflict of Law

If there is a conflict between this subchapter and other laws, this subchapter controls.

