

116TH CONGRESS
2D SESSION

H. R. 7992

To expand access to telehealth services, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 7, 2020

Mrs. WAGNER introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, the Judiciary, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To expand access to telehealth services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Telehealth Act”.

1 **TITLE I—VA MISSION**
2 **TELEHEALTH CLARIFICATION**
3 **SEC. 101. LICENSURE OF HEALTH CARE PROFESSIONALS**
4 **PROVIDING TREATMENT VIA TELEMEDICINE.**

5 Section 1730C(b) of title 38, United States Code, is
6 amended to read as follows:

7 “(b) COVERED HEALTH CARE PROFESSIONALS.—
8 For purposes of this section, a covered health care profes-
9 sional is any of the following individuals:

10 “(1) A health care professional who—
11 “(A) is an employee of the Department ap-
12 pointed under the authority under section 7306,
13 7401, 7405, 7406, or 7408 of this title or title
14 5;

15 “(B) is authorized by the Secretary to pro-
16 vide health care under this chapter;

17 “(C) is required to adhere to all standards
18 for quality relating to the provision of medicine
19 in accordance with applicable policies of the De-
20 partment; and

21 “(D) has an active, current, full, and unre-
22 stricted license, registration, or certification in
23 a State to practice the health care profession of
24 the health care professional.

25 “(2) A health professional trainee who—

1 “(A) is appointed under section 7405 or
2 7406 of this title; and

3 “(B) is under the clinical supervision of a
4 health care professional described in paragraph
5 (1).”.

6 **TITLE II—ADVANCING**
7 **TELEHEALTH BEYOND COVID-19**

8 **SEC. 201. PERMITTING THE SECRETARY OF HEALTH AND**
9 **HUMAN SERVICES TO WAIVE REQUIREMENTS**
10 **RELATING TO THE FURNISHING OF TELE-**
11 **HEALTH SERVICES UNDER THE MEDICARE**
12 **PROGRAM.**

13 Section 1834(m) of the Social Security Act (42
14 U.S.C. 1395m(m)) is amended by adding at the end the
15 following new paragraph:

16 “(9) **AUTHORITY TO WAIVE TELEHEALTH RE-**
17 **QUIREMENTS.**—Notwithstanding any other provision
18 of this subsection, the Secretary may waive any such
19 provision for any area and time period specified by
20 the Secretary.”.

1 **SEC. 202. MAKING PERMANENT THE ABILITY OF FEDER-**
2 **ALLY QUALIFIED HEALTH CENTERS AND**
3 **RURAL HEALTH CLINICS TO FURNISH TELE-**
4 **HEALTH SERVICES UNDER THE MEDICARE**
5 **PROGRAM.**

6 Section 1834(m)(8) of the Social Security Act (42
7 U.S.C. 1395m(m)(8)) is amended—

8 (1) in the header, by striking “DURING EMER-
9 GENCY PERIOD”;

10 (2) in subparagraph (A), in the matter pre-
11 ceding clause (i), by striking “During” and inserting
12 “Beginning on the first day of”; and

13 (3) in subparagraph (B)(i), by striking “during
14 such emergency period”.

15 **SEC. 203. CLARIFICATION FOR FRAUD AND ABUSE LAWS**
16 **REGARDING TECHNOLOGIES PROVIDED TO**
17 **BENEFICIARIES.**

18 Section 1128A(i)(6) of the Social Security Act (42
19 U.S.C. 1320a–7a(i)(6)) is amended—

20 (1) in subparagraph (I), by striking “; or” and
21 inserting a semicolon;

22 (2) in subparagraph (J), by striking the period
23 at the end and inserting “; or”; and

24 (3) by adding at the end the following new sub-
25 paragraph:

“(K) the provision of technologies (as defined by the Secretary) on or after the date of the enactment of this subparagraph, by a provider of services or supplier (as such terms are defined for purposes of title XVIII) directly to an individual who is entitled to benefits under part A of title XVIII, enrolled under part B of such title, or both, for the purpose of furnishing telehealth services, remote patient monitoring services, or other services furnished through the use of technology (as defined by the Secretary), if—

“(i) the technologies are not offered as part of any advertisement or solicitation; and

“(ii) the provision of the technologies meets any other requirements set forth in regulations promulgated by the Secretary.”.

TITLE III—ENHANCE ACCESS TO SUPPORT ESSENTIAL BEHAVIORAL HEALTH SERVICES

SEC. 301. FINDINGS.

Congress finds as follows:

1 (1) Nearly 18 percent of adults in the United
2 States reported a mental, behavioral, or emotional
3 disorder in 2015.

4 (2) Children are also significantly impacted. Ac-
5 cording to the Centers for Disease Control and Pre-
6 vention, 1 in 6 children ages 2 years through 8 years
7 have a diagnosed mental, behavioral, or develop-
8 mental disorder, indicating that disorders begin in
9 early childhood and affect lifelong health.

10 (3) Moreover, 1 in 7 children and adolescents
11 have at least one treatable mental health disorder.

12 (4) There is a critical link between mental
13 health and substance use disorders. According to the
14 Substance Abuse and Mental Health Services Ad-
15 ministration, 1 in 4 adults with severe mental illness
16 had a substance use disorder in 2017.

17 (5) Moreover, children who have had a major
18 depressive episode are more than twice as likely to
19 use illicit drugs.

20 (6) In 2017, approximately 19.7 million people
21 aged 12 years or older had a substance use disorder
22 related to their use of alcohol or illicit drugs in the
23 past year.

1 (7) Despite this overwhelming need, access to
2 behavioral health services remains among the most
3 pressing health care challenges in our country.

4 (8) An estimated 56 percent of Americans with
5 a mental health disorder did not receive treatment in
6 2017.

7 (9) Similarly, half of children and adolescents
8 did not receive treatment for their mental health dis-
9 order in 2016.

10 (10) Further complicating access to care, as de-
11 mand for behavioral health services increases in
12 communities across the United States, the number
13 of psychiatrists available to treat them continues to
14 decline.

15 (11) The population of practicing psychiatrists
16 declined by more than 10 percent between the period
17 of 2003 through 2013, while the population of pri-
18 mary care physicians and neurologists grew during
19 the same period.

20 (12) Technology has evolved to connect individ-
21 uals to health care services in new ways, including
22 via telehealth.

23 (13) Moreover, studies show that video visits
24 are an effective strategy to provide mental health

1 treatment to children and, in fact, may be preferable
 2 in some cases.

3 (14) During the 115th Congress, Congress rec-
 4 ognized the potential of telehealth to ensure that
 5 those in urgent need of substance use disorder treat-
 6 ment receive the care they require.

7 (15) As passed and signed into law, sections
 8 2001 and 1009 of the SUPPORT for Patients and
 9 Communities Act (Public Law 115–271) expands
 10 the use of telehealth services for the treatment of
 11 opioid use disorder and other substance use dis-
 12 orders.

13 (16) It is widely recognized that there is a close
 14 relationship between mental health and substance
 15 use disorders.

16 **SEC. 302. MEDICARE TREATMENT OF BEHAVIORAL HEALTH**
 17 **SERVICES FURNISHED THROUGH TELE-**
 18 **HEALTH.**

19 Section 1834(m) of the Social Security Act (42
 20 U.S.C. 1395m(m)), as amended by title II, is further
 21 amended—

22 (1) in paragraph (4)(C)—

23 (A) in clause (i), by striking “and (7)” and
 24 inserting “(7), and (10)”; and

25 (B) in clause (ii)(X)—

1 (i) by striking “or telehealth services”
 2 and inserting “, telehealth services”; and
 3 (ii) by inserting “, or telehealth serv-
 4 ices described in paragraph (10)” before
 5 the period at the end; and

6 (2) by adding at the end the following new
 7 paragraph:

8 “(10) TREATMENT OF BEHAVIORAL HEALTH
 9 SERVICES FURNISHED THROUGH TELEHEALTH.—
 10 The geographic requirements described in paragraph
 11 (4)(C)(i) shall not apply with respect to telehealth
 12 services that are behavioral health services furnished
 13 on or after July 1, 2020, to eligible telehealth indi-
 14 viduals, including initial patient evaluations, follow-
 15 up medical management, and other behavioral health
 16 services, as determined by the Secretary, at an origi-
 17 nating site described in paragraph (4)(C)(ii) (other
 18 than an originating site described in subclause (IX)
 19 of such paragraph).”.

20 **SEC. 303. MEDICAID MENTAL AND BEHAVIORAL HEALTH**
 21 **TREATMENT THROUGH TELEHEALTH.**

22 Section 1009 of the SUPPORT for Patients and
 23 Communities Act (Public Law 115–271) is amended—

24 (1) in subsection (b)—

1 (A) in the header, by striking “**TREAT-**
2 **MENT FOR SUBSTANCE USE DISORDERS**”
3 and inserting “**TREATMENT FOR SUBSTANCE**
4 **USE DISORDERS AND MENTAL HEALTH**
5 **DISORDERS AND BEHAVIORAL HEALTH**
6 **DISORDERS**”;

7 (B) in the matter preceding paragraph (1),
8 by striking “Not later than 1 year after the
9 date of enactment of this Act, the Secretary”
10 and inserting “The Secretary”;

11 (C) in paragraph (1)—

12 (i) by striking “treatment for sub-
13 stance use disorders” and inserting “treat-
14 ment for substance use disorders and men-
15 tal health disorders and behavioral health
16 disorders”; and

17 (ii) by inserting “psychotherapy,”
18 after “counseling,”;

19 (D) in paragraph (2), by inserting “or
20 mental health disorders and behavioral health
21 disorders” after “substance use disorders”;

22 (E) in paragraph (3), by inserting “and
23 mental health disorders and behavioral health
24 disorders” after “substance use disorders”; and

1 (F) by adding at the end, below and after
2 paragraph (3), the following flush left text:

3 “The Secretary shall issue the guidance under this sub-
4 section not later than 1 year after the date of the enact-
5 ment of this Act, with respect to the matters described
6 in the previous provisions of this subsection relating to
7 substance use disorders, and not later than 2 years after
8 the date of the enactment of this Act, with respect to the
9 matters described in such previous provisions relating to
10 mental health disorders and behavioral health disorders.”;

11 (2) in subsection (c)—

12 (A) in the header, by striking “**TREAT-**
13 **MENT FOR SUBSTANCE USE DISORDERS**”
14 and inserting “**TREATMENT FOR SUBSTANCE**
15 **USE DISORDERS AND MENTAL HEALTH**
16 **DISORDERS AND BEHAVIORAL HEALTH**
17 **DISORDERS**”;

18 (B) in paragraph (1), by striking “treat-
19 ment for substance use disorders” and inserting
20 “treatment for substance use disorders and
21 mental health disorders and behavioral health
22 disorders” each place it appears; and

23 (C) in paragraph (2)—

1 (i) by inserting “with respect to sub-
2 stance use disorders,” after “paragraph
3 (1),”; and

4 (ii) by adding at the end the following
5 new sentence: “Not later than 2 years
6 after the date of enactment of this Act, the
7 Comptroller General shall submit to Con-
8 gress a report containing the results of the
9 evaluation conducted under paragraph (1),
10 with respect to mental health disorders and
11 behavioral health disorders, together with
12 recommendations for such legislation and
13 administrative action as the Comptroller
14 General determines appropriate.”; and

15 (3) in subsection (d)(1)—

16 (A) in the matter preceding subparagraph
17 (A), by inserting “and mental health disorders
18 and behavioral health disorders” after “sub-
19 stance use disorders”;

20 (B) in subparagraph (A), by inserting “,
21 and mental health disorders and behavioral
22 health disorders” after “opioid use disorder”;
23 and

24 (C) in subparagraph (B), by inserting
25 “and mental health disorders and behavioral

1 health disorders” after “substance use dis-
 2 orders”.

3 **SEC. 304. EFFECTIVE DATE.**

4 The amendments made by this title shall take effect
 5 as if included in the enactment of the SUPPORT for Pa-
 6 tients and Communities Act.

7 **TITLE IV—HELPING ENSURE**
 8 **ACCESS TO LOCAL TELEHEALTH**

9 **SEC. 401. PROVIDING FOR PERMANENT COST-RELATED**
 10 **PAYMENTS FOR TELEHEALTH SERVICES FUR-**
 11 **NISHED BY FEDERALLY QUALIFIED HEALTH**
 12 **CENTERS AND RURAL HEALTH CLINICS**
 13 **UNDER THE MEDICARE PROGRAM AND PER-**
 14 **MANENTLY REMOVING ORIGINATING SITE**
 15 **FACILITY AND LOCATION REQUIREMENTS**
 16 **FOR DISTANT SITE TELEHEALTH SERVICES**
 17 **FURNISHED BY SUCH CENTERS AND SUCH**
 18 **CLINICS.**

19 (a) PERMANENT TELEHEALTH PAYMENTS.—Section
 20 1834(m)(8) of the Social Security Act (42 U.S.C.
 21 1395m(m)(8)) is amended—

22 (1) in the header, by striking “DURING EMER-
 23 GENCY PERIOD”;

24 (2) in subparagraph (A), in the matter pre-
 25 ceding clause (i), by striking “During the emergency

1 period described in section 1135(g)(1)(B)” and in-
2 sserting “With respect to telehealth services furnished
3 on or after the date of the beginning of the emer-
4 gency period described in section 1135(g)(1)(B)”;
5 and

6 (3) by striking subparagraph (B) and inserting
7 the following new subparagraph:

8 “(B) PAYMENT.—

9 “(i) IN GENERAL.—A telehealth serv-
10 ice furnished by a rural health clinic or a
11 Federally qualified health center serving as
12 a distant site to an individual shall be
13 deemed to be so furnished to such indi-
14 vidual as an outpatient of such clinic or fa-
15 cility (as applicable) for purposes of para-
16 graph (1) or (3), respectively, of section
17 1861(aa) and payable as a rural health
18 clinic service or Federally qualified health
19 center service (as applicable) under section
20 1833(a)(3) or under the prospective pay-
21 ment system established under section
22 1834(o), respectively.

23 “(ii) TREATMENT OF COSTS FOR
24 FQHC PPS CALCULATIONS AND RHC AIR
25 CALCULATIONS.—Costs associated with the

1 delivery of telehealth services by a Feder-
 2 ally qualified health center or rural health
 3 clinic serving as a distant site pursuant to
 4 this paragraph shall be considered allow-
 5 able costs for purposes of the prospective
 6 payment system established under section
 7 1834(o) and any payment methodologies
 8 developed under section 1833(a)(3), as ap-
 9 plicable.”.

10 (b) ELIMINATION OF ORIGINATING SITE REQUIRE-
 11 MENTS FOR TELEHEALTH SERVICES FURNISHED BY
 12 FQHCs OR RHCs.—

13 (1) IN GENERAL.—Section 1834(m) of the So-
 14 cial Security Act (42 U.S.C. 1395m(m)), as amend-
 15 ed by subsection (a) and titles II and III, is further
 16 amended—

17 (A) in paragraph (4)(C)(i), by striking
 18 “(7), and (10)” and inserting “(7), (8), and
 19 (10)”; and

20 (B) by adding at the end the following new
 21 subparagraph:

22 “(C) NONAPPLICATION OF ORIGINATING
 23 SITE REQUIREMENTS.—The geographic and site
 24 requirements described in paragraph (4)(C)
 25 shall not apply with respect to telehealth serv-

1 ices furnished by a Federally qualified health
 2 center or a rural health clinic serving as a dis-
 3 tant site.”.

4 (2) SPECIAL PAYMENT RULE FOR ORIGINATING
 5 SITES WITH RESPECT TO TELEHEALTH SERVICES
 6 FURNISHED BY AN FQHC OR RHC.—Section
 7 1834(m)(2)(B) of the Social Security Act (42 U.S.C.
 8 1395m(m)(2)(B)) is amended—

9 (A) in clause (i), by striking “clause (ii)”
 10 and inserting “clauses (ii) and (iii)”;

11 (B) by adding at the end the following new
 12 clause:

13 “(iii) SPECIAL RULE FOR TELE-
 14 HEALTH SERVICES FURNISHED BY FQHCS
 15 AND RHCS.—No facility fee shall be paid
 16 under this subparagraph to an originating
 17 site with respect to telehealth services fur-
 18 nished by a Federally qualified health cen-
 19 ter or rural health clinic serving as a dis-
 20 tant site unless such originating site is a
 21 site described in any of subclauses (I)
 22 through (IX) of paragraph (4)(C)(ii).”.

23 (c) TREATMENT OF FQHC AND RHC TELEHEALTH
 24 SERVICES AS A VISIT.—The Secretary of Health and
 25 Human Services shall revise section 405.2463 of title 42,

1 Code of Federal Regulations (or a successor regulation)
 2 to provide that, in the case of a Federally qualified health
 3 center or a rural health clinic serving as a distant site
 4 furnishing telehealth services to an individual in accord-
 5 ance with section 1834(m) of the Social Security Act (42
 6 U.S.C. 1395m(m)), such services so furnished are consid-
 7 ered to constitute a visit to such center or such clinic (as
 8 applicable) by such individual.

9 **TITLE V—TELEHEALTH ACROSS** 10 **STATE LINES**

11 **SEC. 501. NATIONAL TELEHEALTH PROGRAM.**

12 Subpart I of part D of title III of the Public Health
 13 Service Act (42 U.S.C. 254b et seq.) is amended by adding
 14 at the end the following:

15 **“SEC. 330N. NATIONAL TELEHEALTH PROGRAM.**

16 “(a) UNIFORM NATIONAL BEST PRACTICES.—

17 “(1) IN GENERAL.—The Secretary shall, in con-
 18 sultation with a range of stakeholders including the
 19 entities listed in paragraph (3), issue guidance on
 20 uniform best practices for the provision of telehealth
 21 across State lines.

22 “(2) OBJECTIVE.—The objective of the best
 23 practices issued under paragraph (1) shall be to, not
 24 later than 5 years after the date of enactment of

1 this section, provide high-quality telehealth in rural
2 areas across the United States.

3 “(3) CONSULTATION.—The entities listed in
4 this paragraph include—

5 “(A) technology experts;

6 “(B) data security experts;

7 “(C) primary care providers;

8 “(D) specialist providers;

9 “(E) mental health providers;

10 “(F) academic medical centers;

11 “(G) Federally qualified health centers, as
12 defined in section 1861(aa) of the Social Secu-
13 rity Act;

14 “(H) State, local, or tribal health depart-
15 ments;

16 “(I) critical access hospitals;

17 “(J) any Federal agency with expertise in
18 the provision of telecommunications or tele-
19 health; and

20 “(K) consumers of telehealth.

21 “(4) REPORTS.—The Secretary shall, not less
22 than once every year beginning 1 year after the date
23 of enactment of this section and ending on the date
24 on which the guidance under paragraph (1) is
25 issued, report to the Committee on Health, Edu-

1 cation, Labor, and Pensions of the Senate and the
2 Committee on Energy and Commerce of the House
3 of Representatives on the progress of such guidance.

4 “(b) GRANT PROGRAM.—

5 “(1) IN GENERAL.—The Secretary shall for
6 each of fiscal years 2020 through 2024 award
7 grants to eligible entities described in paragraph (2)
8 for the expansion of telehealth programs to rural
9 areas.

10 “(2) ELIGIBLE ENTITY.—To be eligible to re-
11 ceive a grant under this subsection, an entity shall—

12 “(A) demonstrate that it is operating, on
13 the date on which the entity submits an appli-
14 cation under subparagraph (B), an effective
15 telehealth program (as determined in accord-
16 ance with criteria established by the Secretary);
17 and

18 “(B) submit an application to the Sec-
19 retary at such time, in such manner, and con-
20 taining such information as the Secretary may
21 reasonably require, including a plan to expand
22 the telehealth program operated by the entity to
23 rural areas.

1 “(3) STUDY.—Not later than 3 years after the
2 date of enactment of this section, the Secretary
3 shall—

4 “(A) complete a study on the grant pro-
5 gram under this subsection, including the suc-
6 cesses and challenges of the program, lessons
7 the Secretary has learned with respect to the
8 program, and best practices for telehealth pro-
9 grams; and

10 “(B) submit a report on such study to the
11 Committee on Health, Education, Labor, and
12 Pensions of the Senate and the Committee on
13 Energy and Commerce of the House of Rep-
14 resentatives.

15 “(4) AUTHORIZATION OF APPROPRIATIONS.—
16 There is authorized to be appropriated to carry out
17 this subsection, \$20,000,000 for each of fiscal years
18 2020 through 2024.

19 “(c) DEFINITION OF RURAL AREA.—In this section,
20 the term ‘rural area’ has the meaning given the term in
21 section 330J(e).”.

1 **SEC. 502. CENTER FOR MEDICARE AND MEDICAID INNOVA-**
 2 **TION (CMMI) MODEL TO INCENTIVIZE THE**
 3 **ADOPTION OF TELEHEALTH IN ORDER TO IN-**
 4 **CREASE ACCESS TO CARE IN RURAL AREAS.**

5 Section 1115A(b)(2)(B) of the Social Security Act
 6 (42 U.S.C. 1395a(b)(2)(B)) is amended by adding at the
 7 end the following new clause:

8 “(xxviii) Providing incentives under
 9 title XVIII to encourage the adoption of
 10 telehealth in order to increase access to
 11 care in rural areas.”.

12 **TITLE VI—ENHANCING PRE-**
 13 **PAREDNESS THROUGH TELE-**
 14 **HEALTH**

15 **SEC. 601. TELEHEALTH ENHANCEMENTS FOR EMERGENCY**
 16 **RESPONSE.**

17 Subsection (e) of section 319D of the Public Health
 18 Service Act (42 U.S.C. 247d–4) is amended to read as
 19 follows:

20 “(e) TELEHEALTH ENHANCEMENTS FOR EMER-
 21 GENCY RESPONSE.—

22 “(1) EVALUATION.—The Secretary, in consulta-
 23 tion with the Federal Communications Commission
 24 and other relevant Federal agencies, shall, every 5
 25 years—

1 “(A) conduct an inventory of telehealth ini-
2 tiatives in existence on the date of enactment of
3 the Enhancing Preparedness through Tele-
4 health Act, including the—

5 “(i) specific location of networks and
6 health information technology infrastruc-
7 ture that support such initiatives;

8 “(ii) medical, technological, and com-
9 munications capabilities of such initiatives;

10 “(iii) functionality of such initiatives;
11 and

12 “(iv) capacity and ability of such ini-
13 tiatives to handle increased volume during
14 the response to a public health emergency;

15 “(B) identify methods to expand and inter-
16 connect the State and regional health informa-
17 tion networks funded by the Secretary, the
18 State and regional broadband networks funded
19 by the Federal Communications Commission,
20 including such networks supported by the rural
21 health care support mechanism pilot program,
22 and other telehealth networks;

23 “(C) evaluate ways to prepare for, monitor,
24 respond rapidly to, or manage the events of, a

1 public health emergency through the enhanced
2 use of telehealth technologies, including—

3 “(i) mechanisms for payment or reim-
4 bursement for use of such technologies and
5 personnel during public health emer-
6 gencies;

7 “(ii) the use of telehealth technologies
8 and services by health care providers in re-
9 cent public health emergencies;

10 “(iii) ways in which States used tele-
11 health technologies and services in State
12 responses to public health emergencies;
13 and

14 “(iv) infrastructure and resource
15 needs to ensure providers have the nec-
16 essary tools, training, and technical assist-
17 ance to provide telehealth services;

18 “(D) identify methods for reducing legal
19 barriers that deter health care professionals
20 from providing telehealth services, such as by
21 utilizing State emergency health care profes-
22 sional credentialing verification systems, en-
23 couraging States to establish and implement
24 mechanisms to improve interstate medical licen-
25 sure cooperation, facilitating the exchange of in-

1 formation among States regarding investiga-
2 tions and adverse actions, and encouraging
3 States to waive the application of licensing re-
4 quirements during a public health emergency;

5 “(E) evaluate ways to integrate the prac-
6 tice of telehealth within the National Disaster
7 Medical System or any recent actions taken re-
8 lated to such integration;

9 “(F) promote greater coordination among
10 existing Federal interagency telehealth and
11 health information technology initiatives; and

12 “(G) make recommendations related to up-
13 dates on the use of telehealth in public health
14 emergencies in Federal and State public health
15 preparedness plans and any actions taken to
16 implement such recommendations.

17 “(2) REPORT.—

18 “(A) IN GENERAL.—

19 “(i) INITIAL REPORT.—Not later than
20 1 year after the date of enactment of the
21 Enhancing Preparedness through Tele-
22 health Act, the Secretary shall prepare and
23 submit a report to the Committee on
24 Health, Education, Labor, and Pensions of
25 the Senate and the Committee on Energy

1 and Commerce of the House of Represent-
2 atives regarding the findings and rec-
3 ommendations pursuant to paragraph (1).

4 “(ii) SUBSEQUENT REPORTS.—The
5 Secretary shall submit updated reports de-
6 scribed in clause (i) to the committees de-
7 scribed in such clause not later than Janu-
8 ary 1, 2023, and every 5 years thereafter.

9 “(B) CONSIDERATIONS.—In preparing the
10 reports under subparagraph (A), the Secretary
11 shall take into consideration potential barriers
12 to the adoption of telehealth by patients and
13 providers during a public health emergency, in-
14 cluding—

15 “(i) provider reimbursement;

16 “(ii) insurance coverage;

17 “(iii) provider licensure;

18 “(iv) accessibility of telehealth and re-
19 mote technologies; and

20 “(v) concerns around violating rel-
21 evant privacy, security, and patient safety
22 regulations.”.

1 **TITLE VII—KNOWING THE EFFI-**
2 **CIENCY AND EFFICACY OF**
3 **PERMANENT TELEHEALTH**
4 **OPTIONS**

5 **SEC. 701. FINDINGS.**

6 Congress finds the following:

7 (1) On January 21, 2020, the United States
8 confirmed the Nation’s first case of the 2019 novel
9 coronavirus (which presents as the disease COVID–
10 19).

11 (2) On January 31, 2020, the Secretary of
12 Health and Human Services (in this title referred to
13 as the “Secretary”) declared a public health emer-
14 gency in response to COVID–19.

15 (3) By March, the disease reached the pan-
16 demic level according to the World Health Organiza-
17 tion, and the President proclaimed the COVID–19
18 outbreak in the United States to constitute a na-
19 tional emergency.

20 (4) This emergency declaration authorizes the
21 Secretary “to temporarily waive or modify certain
22 requirements of the Medicare, Medicaid, and State
23 Children’s Health Insurance programs and of the
24 Health Insurance Portability and Accountability Act
25 Privacy Rule throughout the duration of the public

1 health emergency declared in response to the
2 COVID–19 outbreak”.

3 (5) Under this authority, the Secretary, and the
4 Administrator of the Centers for Medicare & Med-
5 icaid Services (in this title referred to as the “Ad-
6 ministrator”) acting under the Secretary’s authority,
7 issued numerous rules, regulations, and waivers ena-
8 bling the expansion of telehealth services during the
9 public health emergency.

10 (6) Telehealth services play a critical role in en-
11 hancing access to care for patients while simulta-
12 neously reducing the risk of exposure to the corona-
13 virus for both patients and providers.

14 (7) The Administrator expanded access to tele-
15 health services under the public health emergency to
16 all Medicare beneficiaries (including clinician-pro-
17 vided services to new and established patients).

18 (8) On April 23, 2020, the Administrator re-
19 leased a telehealth toolkit to assist States in expand-
20 ing the use of telehealth through Medicaid and
21 CHIP.

22 (9) Expanded telehealth options are valuable
23 for all Americans during this public health crisis,
24 but especially for high-risk patients and rural Ameri-
25 cans who already have difficulty accessing care.

1 **SEC. 702. STUDIES AND REPORTS ON THE EXPANSION OF**
2 **ACCESS TO TELEHEALTH SERVICES DURING**
3 **THE COVID-19 EMERGENCY.**

4 (a) HHS.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of the enactment of this Act, the Sec-
7 retary, in consultation with the Administrator, shall
8 conduct a study and submit to Congress a report on
9 actions taken by the Secretary during the emergency
10 period described in section 1135(g)(1)(B) of the So-
11 cial Security Act (42 U.S.C. 1320b-5(g)(1)(B)) to
12 expand access to telehealth services under the Medi-
13 care program, the Medicaid program, and the Chil-
14 dren's Health Insurance program. Such report shall
15 include the following:

16 (A) A comprehensive list of telehealth serv-
17 ices available under the programs described in
18 paragraph (1) and an explanation of all actions
19 undertaken by the Secretary during the emer-
20 gency period described in such paragraph to ex-
21 pand access to such services.

22 (B) A comprehensive list of types of pro-
23 viders that may be reimbursed for such services
24 furnished under such programs during such pe-
25 riod, including a list of services which may only
26 be reimbursed under such programs during

1 such period if furnished by such providers in-
2 person.

3 (C) A quantitative analysis of the use of
4 such telehealth services under such programs
5 during such period, including data points on
6 use by rural, minority, low-income, and elderly
7 populations.

8 (D) A quantitative analysis of the use of
9 such services under such programs during such
10 period for mental and behavioral health treat-
11 ments.

12 (E) An analysis of the public health im-
13 pacts of the actions described in subparagraph
14 (A).

15 (2) PUBLICATION OF REPORT.—Not later than
16 180 days after the date of the enactment of this Act,
17 the Secretary shall publish on the public website of
18 the Department of Health and Human Services the
19 report described in paragraph (1).

20 (b) GAO.—

21 (1) IN GENERAL.—Not later than 210 days
22 after the date of enactment of this Act, the Comp-
23 troller General of the United States shall conduct a
24 study and submit to Congress a report on—

1 (A) the efficiency, management, and suc-
2 cess and failures of the expansion of access to
3 telehealth services under the Medicare, Med-
4 icaid, and Children’s Health Insurance pro-
5 grams during the emergency period described in
6 subsection (a)(1); and

7 (B) any risk in increased fraudulent activ-
8 ity, and types of fraudulent activity, associated
9 with such expansion.

10 (2) RECOMMENDATIONS.—The report submit-
11 ted under paragraph (1) shall include recommenda-
12 tions on—

13 (A) potential improvements to telehealth
14 services, and expansions of such services, under
15 the programs described in paragraph (1)(A);
16 and

17 (B) ways to address any fraudulent activ-
18 ity described in paragraph (1)(B).

1 **TITLE VIII—TELEMEDICINE EV-**
2 **ERYWHERE LIFTING EVERY-**
3 **ONE’S HEALTHCARE EXPERI-**
4 **ENCE AND LONG TERM**
5 **HEALTH HSA**

6 **SEC. 801. PERMANENT EXEMPTION FOR TELEHEALTH**
7 **SERVICES.**

8 (a) IN GENERAL.—Subparagraph (E) of section
9 223(c)(2) of the Internal Revenue Code of 1986 is amend-
10 ed by striking “In the case of plan years beginning on
11 or before December 31, 2021, a plan” and inserting “A
12 plan”.

13 (b) CONFORMING AMENDMENT.—Clause (ii) of sec-
14 tion 223(c)(1)(B) of the Internal Revenue Code of 1986
15 is amended by striking “(in the case of plan years begin-
16 ning on or before December 31, 2021)”.

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to plan years beginning after De-
19 cember 31, 2021.

1 **TITLE IX—TELEHEALTH RE-**
2 **SPONSE FOR E-PRESCRIBING**
3 **ADDICTION THERAPY SERV-**
4 **ICES**

5 **SEC. 901. TELEHEALTH FOR SUBSTANCE USE DISORDER**
6 **TREATMENT.**

7 (a) SUBSTANCE USE DISORDER SERVICES FUR-
8 NISHED THROUGH TELEHEALTH UNDER MEDICARE.—
9 Section 1834(m)(7) of the Social Security Act (42 U.S.C.
10 1395m(m)(7)) is amended by adding at the end the fol-
11 lowing: “With respect to telehealth services described in
12 the preceding sentence that are furnished on or after Jan-
13 uary 1, 2020, nothing shall preclude the furnishing of
14 such services through audio or telephone only technologies
15 in the case where a physician or practitioner has already
16 conducted an in-person medical evaluation or a telehealth
17 evaluation that utilizes both audio and visual capabilities
18 with the eligible telehealth individual.”.

19 (b) CONTROLLED SUBSTANCES DISPENSED BY
20 MEANS OF THE INTERNET.—Section 309(e)(2) of the
21 Controlled Substances Act (21 U.S.C. 829(e)(2)) is
22 amended—

23 (1) in subparagraph (A)(i)—

1 (A) by striking “at least 1 in-person med-
2 ical evaluation” and inserting the following: “at
3 least—

4 “(I) 1 in-person medical evalua-
5 tion”; and

6 (B) by adding at the end the following:

7 “(II) for purposes of prescribing
8 a controlled substance in schedule III
9 or IV, 1 telehealth evaluation; or”;
10 and

11 (2) by adding at the end the following:

12 “(D)(i) The term ‘telehealth evaluation’
13 means a medical evaluation that is conducted in
14 accordance with applicable Federal and State
15 laws by a practitioner (other than a phar-
16 macist) who is at a location remote from the
17 patient and is communicating with the patient
18 using a telecommunications system referred to
19 in section 1834(m) of the Social Security Act
20 (42 U.S.C. 1395m(m)) that includes, at a min-
21 imum, audio and video equipment permitting
22 two-way, real-time interactive communication
23 between the patient and distant site practi-
24 tioner.

1 “(ii) Nothing in clause (i) shall be con-
2 strued to imply that 1 telehealth evaluation
3 demonstrates that a prescription has been
4 issued for a legitimate medical purpose within
5 the usual course of professional practice.

6 “(iii) A practitioner who prescribes the
7 drugs or combination of drugs that are covered
8 under section 303(g)(2)(C) using the authority
9 under subparagraph (A)(i)(II) of this para-
10 graph shall adhere to nationally recognized evi-
11 dence-based guidelines for the treatment of pa-
12 tients with opioid use disorders and a diversion
13 control plan, as those terms are defined in sec-
14 tion 8.2 of title 42, Code of Federal Regula-
15 tions, as in effect on the date of enactment of
16 this subparagraph.”.

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