This draft of teleMEDICINE language is a result of negotiations between the Idaho Medical Association and Teledoc. We are not intending to go around the Council process but are presenting this language as an option for the Council to consider. IMA and Teledoc have been trying to work through our policy differences starting in May of 2014. Because our work predates the Council, we would appreciate the Council's consideration of this language provided it furthers the goals of the Council. Although IMA and Teledoc have both made concessions in order to reach consensus, it is important for the Council to know that the IMA Board has not yet taken a position on this language and IMA may ultimately not be able to support this language or other language put forth by the Council.

54-1822. TELEMEDICINE.

(a) "Telemedicine" means the practice of medicine using electronic communications, information technology or other means between a physician in one location, and a patient in another location with or without an intervening healthcare provider.

(b) A telemedicine encounter shall not require an in-person physical examination of the patient by the physician, unless the standard of care in the community in which the patient is located would require a physical examination, and provided the evaluation of the patient by the physician via telemedicine must be sufficient to identify underlying medical conditions and establish a diagnosis and course of treatment for the patient for such identified conditions and the standard of care is met for any such diagnosis or course of treatment.

(c) Physicians diagnosing and treating patients without an in-person physical examination must evaluate the indication, appropriateness and safety considerations for such care in accordance with the standard of care in the community in which the patient is located and consequently carry the same professional accountability as providing such care during an in-person encounter.

(d) The board may not impose disciplinary sanctions on a physician practicing telemedicine for prescribing, dispensing, or administering a prescription drug to a patient without conducting an in-person physical examination if:

(1) the physician is licensed in this state;

(2) the episode of care meets the standard of care in the community in which the patient is located;

(3) a physician-patient relationship has been established by a physician's agreement to undertake diagnosis and treatment of a patient, and the patient's agreement to be treated, whether or not there has been a physical examination or an in-person encounter between the physician and patient;

(4) the prescription drug is:

(i) not a controlled substance; or

(ii) a controlled substance and is prescribed, dispensed, or administered by a physician when a health care provider licensed under title 54, chapter 14 or chapter 18 is present with the patient to assist the physician with examination, diagnosis, and treatment; and

(5) if the telemedicine encounter is not performed in conjunction with a patient's primary care physician, the physician seeks to identify the patient's primary care provider, seeks consent from the patient to forward the patient's records to the patient's primary care provider and

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32 forwards the records if the patient consents. If no primary care provider is identified, the
33 physician shall make the patient's records available to the patient electronically or send a copy
34 of the records to the patient if the patient consents. Patient records shall be considered
35 confidential and shall be subject to all applicable state and federal laws and regulations relative
36 to the privacy of health information; or
37 (6) there exists a physician-patient relationship in which there has been a physical examination or an
38 in-person encounter; or
39 (7) **[LANGUAGE ON CALL COVERAGE AND/OR CROSS COVERAGE SERVICES IS STILL UNDER**
40 **NEGOTIATION]**
41 (d) During a telemedicine encounter, a physician shall:
42 (1) obtain a patient's medical history prior to diagnosis or treatment;
43 (2) maintain adequate patient records that contain, at minimum, subjective information, an
44 evaluation and report of findings, assessment or diagnosis, and the plan of care;
45 (3) upon request provide details of licensure and board certification to a patient; and
46 (4) have protocols in place for referrals for emergency services.
47 (e) The provisions in this section shall be in accordance with and shall not conflict with chapter 56, title
48 54, Idaho Code, regulating telehealth.