

CHAPTER 56
IDAHO TELEHEALTH ACCESS ACT

54-5601. Title. This chapter shall be known and may be cited as the “Idaho Telehealth Access Act.”

54-5602. Declaration of Policy. To provide for definitions; to provide for the delivery of healthcare services through telehealth; to authorize state agencies and licensing boards to promulgate rules governing healthcare services provided by telehealth; and to provide for related matters.

54-5603. Findings. The legislature hereby finds the following:

- (1) Telehealth enhances access to care, makes delivery of care more cost-effective, and distributes limited healthcare provider resources more efficiently.
- (2) Many citizens with limited access to traditional health care can be diagnosed and treated sooner through telehealth than they would be otherwise, resulting in improved outcomes and less costly treatments due to early detection and prevention.
- (3) Telehealth services address an unmet need for healthcare by persons who have limited access to healthcare due to healthcare provider shortages or geographic barriers.
- (4) Telehealth services provide increased capacity for appropriate care in the appropriate location at the appropriate time to better serve patients, providers and communities.
- (5) When practiced safely, telehealth will result in improvement in health outcomes by expanding access to telehealth services for people seeking healthcare in Idaho.

54-5604. Definitions.

- (1) “Telehealth” means a modality of providing healthcare to a person in Idaho through the use of electronic communications, information technology, asynchronous store and forward transfer, or synchronous interaction between a healthcare provider in one location (distant site), and a patient in another location (originating site) for any aspects of healthcare, including but not limited to: clinical care, health education, home health, and facilitation of self-managed care and caregiver support. Within this act, the terms telehealth, telehealthcare and telemedicine are used interchangeably.
- (2) “Healthcare Provider” means a person who is licensed by the state of Idaho pursuant to Title 54, Idaho Code, to deliver healthcare consistent with his or her license.
- (3) “Asynchronous store and forward transfer” means the transmission of a patient’s healthcare information from an originating site to the provider at the distant site without the patient being present over a secure connection that complies with state and federal security and privacy laws.

- 39 (4) "Synchronous interaction" means real time communication through interactive technology that enables
40 a healthcare provider and a patient at two locations separated by distance to interact simultaneously
41 through two-way video and audio or audio transmissions.
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- 43 (5) "Originating site" means the location of the patient in Idaho at the time the telehealth service is
44 furnished.
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- 46 (6) "Distant site" means the site at which the healthcare provider delivering the telehealth service is located
47 at the time the service is provided.

48 54-5605. Practice of telehealth.

- 49 (1) Licensure and Scope of Practice. A person must be a healthcare provider as defined in Section 54-
50 5604(2) to utilize telehealth in his or her practice. A healthcare provider utilizing telehealth in his or her
51 practice must at all times act within the scope of the healthcare provider's license and all applicable laws
52 and regulations, including but not limited to this act and the applicable Idaho community standard of
53 care.
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- 55 (2) Establishment of a provider-patient relationship. If a healthcare provider utilizing telehealth in his or her
56 practice does not have an established provider-patient relationship, the healthcare provider must take
57 appropriate steps to establish a provider-patient relationship by using two-way audio and visual
58 interaction, provided the applicable Idaho community standard of care is met. However, nothing in this
59 act shall prohibit electronic communications: (a) by a healthcare provider with a patient with whom the
60 healthcare provider has a preexisting provider-patient relationship, or (b) by a healthcare provider with
61 another healthcare provider who has a current provider-patient relationship with that patient, or (c) by
62 a healthcare provider with a patient with whom the healthcare provider does not have a relationship, if
63 the healthcare provider is taking call for another provider in the same community who does have a pre-
64 existing provider-patient relationship with that patient, or (d) in an emergency, which means occurrence
65 or imminent threat of a condition threatening life or severe bodily harm.
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- 67 (3) Evaluation and treatment. A healthcare provider must, prior to providing treatment, including issuing a
68 prescription drug order, obtain and document, relevant clinical history and current symptoms to
69 establish the diagnosis and identify underlying conditions and/or contraindications to the treatment
70 recommended. Treatment recommendations made through telehealth, including issuing a prescription
71 drug order, will be held to the applicable Idaho community standard of care that applies in an in-person
72 setting. Treatment, including issuing a prescription drug order, based solely on an online questionnaire
73 does not constitute an acceptable standard of care in Idaho.
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- 75 (4) Prescribing. A healthcare provider with an established provider-patient relationship, including a
76 relationship established as provided in 54-5605(2), may prescribe using telehealth within the scope of
77 his or her license and applicable laws and regulations, including the applicable Idaho community

78 standard of care, provided the prescription drug is not a controlled substance, unless the controlled
79 substance is prescribed in compliance with the Ryan Haight Act, 21 USC 802(54)(A).

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81 Nothing in this act shall be interpreted to expand prescriptive authority for any healthcare provider beyond
82 what is authorized by that provider's licensing board.

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84 (5) Informed consent. A patient's informed consent for the use of telehealth must be obtained as required
85 by federal or state law.

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87 (6) Continuity of care. Patients must be able to contact and seek follow-up care or information from the
88 healthcare provider or his or her designated healthcare provider.

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90 (7) Referrals for emergency services. A healthcare provider shall be familiar with or have access to available
91 medical resources, including those in proximity to the patient, in order to make appropriate patient
92 referrals when medically indicated.

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94 (8) Medical records. Healthcare providers providing telehealth services to a patient must generate,
95 maintain and allow patient and other healthcare provider access to a medical record for each patient in
96 compliance with applicable state and federal laws and regulations, including the Health Insurance
97 Portability and Accountability Act (HIPAA).

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99 54-5606. Enforcement and Discipline. A healthcare provider is prohibited from utilizing telehealth in his or her
100 practice if the healthcare provider is not in full compliance all applicable laws and regulations, including this act
101 and the applicable Idaho community standard of care. Each Board shall be authorized to enforce this act as it
102 relates to the practice of the individuals it licenses. A healthcare provider who is not in compliance with all
103 applicable laws and regulations, including this act and the applicable Idaho community standard of care is
104 subject to discipline by his or her respective licensing board.

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106 54-5607. Rulemaking. Boards regulating healthcare providers governed by title 54, Idaho Code, may promulgate
107 rules regulating the practice of telehealth pursuant to this chapter and consistent with the provisions contained
108 herein.