

BILL NO. 35-0081

Thirty-Fifth Legislature of the Virgin Islands

May 31, 2023

An Act repealing and reenacting Title 27, chapter 1, subchapter IIa to enact the Virgin Islands Telehealth Act, which includes telemedicine and the standards that govern the practice of medicine and the provision of healthcare services using telehealth modalities

PROPOSED BY: Senator Donna A. Frett-Gregory

1 *Be it enacted by the Legislature of the Virgin Islands:*

2 **SECTION 1.** Title 27 Virgin Islands Code, Chapter 1, Subchapter IIa is hereby repealed

3 and reenacted to read as follows:

4 **“Subchapter IIa. Telehealth**

5 This act may be known as the Virgin Islands Telehealth Act.

6 **§45a. Legislative Intent**

7 The Legislature finds and declares that:

8 (1) Lack of primary care, specialty providers, and transportation continue to be

9 significant barriers to access to health services in the Territory;

10 (2) The Virgin Islands has difficulty attracting and retaining health professionals, as

11 well as supporting local health facilities to provide a continuum of health care;

1 (3) Many health care providers are isolated from mentors, colleagues, and the
2 information resources necessary to support them personally and professionally;

3 (4) It is the intent of the Legislature to create a parity of telehealth with other health
4 care delivery modes to actively promote telehealth as a tool to advance stakeholders' goals
5 regarding health status and health system improvement, and to create opportunities and
6 flexibility for telehealth to be used in new models of care and system improvements;

7 (5) Telehealth is part of a multifaceted approach to address the problem of inadequate
8 provider distribution and the development of health systems by improving communication
9 capabilities and providing convenient access to up-to-date information, consultations, and other
10 forms of support;

11 (6) The use of information and telecommunication technologies to deliver health
12 services has the potential to reduce costs, improve quality, change the conditions of practice,
13 and improve access to health care;

14 (7) Telehealth will allow health care providers to monitor, assess, supervise, train,
15 consult, and offer a wide range of services that would not be otherwise available to all patients
16 in the Territory;

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

20 (9) Health care consumers will benefit from telehealth in many ways, including
21 expanded access to providers, faster and more convenient treatment, better continuity of care,
22 reduction of lost work time and travel costs, and the ability to remain with support networks;

1 (10) The implementation of telehealth laws and use permits the continuity of medical
2 services in the event of disasters and catastrophes, especially in island communities where
3 geography plays a role in medical care;

4 (11) It is the intent of the Legislature that the fundamental health care provider-patient
5 relationship can not only be preserved, but also augmented and enhanced, through the use of
6 telehealth as a tool to be integrated into practices; and

7 (12) Without the assurance of payment and the resolution of legal and policy barriers,
8 the full potential of telehealth will not be realized.

9 **§ 45b. Definitions**

10 For purposes of this Subchapter, the following terms shall have the meaning and scope
11 stated below, unless clearly stated otherwise:

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

19 (b) “Board” means all medical and health-related Boards established by Virgin Islands
20 law including Boards specified under Title 27, Chapters 1-2. This definition includes the Virgin
21 Islands Board of Medical Examiners, Dental Examiners, Nurse Licensure, Pharmacy,
22 Optometrical Examiners, Physical Therapy, Chiropractic Examiners, Podiatry Examiners,
23 Psychology Examiners, Naturopathic Physicians, Social Work Licensure, Licensed Counselors
24 and Examiners.

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

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

5 (e) “Health benefit policy” means any individual or group plan, policy, or contract for
6 health care services issued, delivered, issued for delivery, executed, or renewed in this
7 Territory, including, but not limited to, those contracts executed by the Government of the
8 Virgin Islands on behalf of Virgin Islands Government employees and any health insurance
9 plan.

10 (f) “Interactive health communications” means communication using multimedia
11 communications equipment that includes, at a minimum, audio and video equipment permitting
12 two-way, real time interactive communication between the patient and distant site physician or
13 practitioner. Telephones, facsimile machines, and electronic mail systems do not meet the
14 definition of an interactive telecommunications system.

15 (g) “Insurer” means an accident and sickness insurer, fraternal benefit society, hospital
16 service corporation, medical service corporation, and health care corporation. Health
17 maintenance organization. preferred provider organization, provider sponsored health care
18 corporation. managed care entity, or any similar entity authorized to issue contracts under this
19 title or to provide health benefit policies.

20 (h) “Licensure for telehealth” means a telemedicine license or any current Virgin
21 Islands healthcare professional license authorizing the use of telehealth, including unrestricted,
22 institutional, special restricted and special unrestricted.

23 (i) “Mobile Health” means Smartphone apps designed to foster health and wellbeing,
24 that offer a wide range of health-related help, including apps that send targeted text messages

1 to encourage healthy behaviors, alerts about disease outbreaks, and reminders that help patients
2 adhere to specific care regimens. MHealth uses cameras, microphones, or other sensors and
3 transducers to capture vital signs and document RPM.

4 (j) “Originating site” means the site of the patient in the Virgin Islands at the time
5 health care services are provided by means of telemedicine or telehealth, unless the term is
6 otherwise defined by the parties and provided, however, that notwithstanding any other
7 provision of law, insurers and providers may agree to alternative siting arrangements deemed
8 appropriate by the parties. The possible facilities include but are not limited to: physician
9 offices, health care provider offices/homes, federally qualified health care centers, hospitals,
10 Department of Health, skilled nursing homes, behavioral health facilities, youth rehabilitation
11 facilities, urgent care centers, wellness centers, supportive housing facilities, senior living
12 facilities, and community-based substance abuse centers.

13 (k) “Provider—patient relationship” means any provider—patient relationship that is a
14 consensual relationship in which the patient or surrogate knowingly seeks the provider’s
15 assistance and in which the provider knowingly accepts the person or patient as a patient. This
16 relationship may be established through telehealth.

17 (l) “Telehealth” means the use of electronic information and telecommunication
18 technologies to support and promote long-distance clinical health care, patient and professional
19 health-related education, public health and health administration as defined by the U.S. Centers
20 for Disease Control, Health Resources and Services Administration and the Office of the
21 National Coordinator, and includes the use of synchronous (live video) or asynchronous (store
22 and forward) telecommunications technology by a telehealth provider to provide health care
23 services such as, but not limited to: assessment, diagnosis, health care provider consultation,

1 treatment and monitoring of a patient, transfer of medical data, patient and professional health-
2 related education, public health services, and mobile health.

3 (m) “Telehealth provider” means a provider using telehealth to provide telemedicine,
4 medical or health services, and includes but is not limited to, all the following providers:
5 physicians, nurse practitioners, physician assistants, certified nurse mid-wives, psychiatrists,
6 certified nurse anaesthetists, psychiatric clinical nurse practitioners, marriage and family
7 therapy counselors, school psychologist, substance abuse counselors, clinical nurse specialists,
8 clinical psychologists, speech therapists, clinical nurse specialists, audiologists, physical
9 therapists, social workers, clinical social workers, dentists, dental hygienists, dental therapists,
10 mental health counsellors, pharmacists, registered dietitians, nutritionists, podiatrists,
11 occupational therapists, naturopathic practitioners, behavior analysts, and allied health
12 professionals as specified by the Allied Health Board of Virgin Islands Department of Health
13 in the absence of a Board.

14 (n) “Telemedicine” means the practice of medicine or delivery of clinical services
15 using 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 an
17 intervening health care provider. Telemedicine refers to the interactive health communications
18 with a health care provider on both ends of the exchange and is a form of telehealth used by a
19 telehealth provider to provide treatment and prescribe medicine or medication through
20 electronic communication and information technology.

21 **§ 45c. Telehealth Scope**

22 (a) The Telehealth Act allows telehealth providers to use services, which include but
23 are not limited to the following:

1 (1) Consultations between physicians and other health care providers or the
2 transmission and review of digital images, pathology specimens, test results, or other
3 medical data by physicians or health care providers related to the care of patients in this
4 Territory.

5 (b) Treating a patient with an emergency medical condition or treating a patient during
6 a state of emergency as defined by any one of the following:

7 i. “emergency medical condition” means a medical condition manifesting itself by
8 acute symptoms of sufficient severity that the absence of immediate medical attention
9 will result in serious jeopardy to patient health, serious impairment to bodily functions,
10 or serious dysfunction of a body organ or part.

11 ii. “state of emergency” means any declaration by the Governor of the Virgin
12 Islands, the President of the United States, or any authorized department or agency
13 requiring emergency management and that is deemed a major disaster or imminent threat
14 to health or welfare.

15 iii. Pursuant sections 15, 50, 1651, of this title pertaining to participation or
16 exemptions made for treating a patient during a disaster, emergency, or declaration/state
17 of emergency.

18 (c) Treating and providing medical and health care services to a patient by
19 telecommunications or electronic communications and facilitating the assessment, diagnosis,
20 education, care management and self-management of a patient’s health care by a telehealth
21 provider practicing within the provider’s scope of practice; such services that can be provided
22 through a telehealth provider include, but are not limited to:

23 i. prescribing medicine;

24 ii. immediate attention from a specialist;

- 1 iii. immediate diagnoses by a specialist in a particular area or region;
- 2 iv. specialty care;
- 3 v. distance education for students of nursing and medical schools;
- 4 vi. digital records of radiologic examinations and ultrasounds; and
- 5 vii. medical emergencies care.

6 (d) Telehealth and telemedicine may not be used for any condition where an in-person
7 exam is required because of severe symptoms, certain protocol driven procedures, or aggressive
8 interventions.

9 **§ 45d. Telehealth Licensure**

10 The Virgin Islands boards governing licensure of each area of practice shall regulate the
11 practice of telehealth in the Virgin Islands in accordance with the provisions of this subchapter
12 including, the following:

13 (1) No person may practice or attempt to practice telehealth at a distant site
14 between the Virgin Islands and provider licensed in a foreign jurisdiction;

15 (2) No person may practice or attempt to practice telehealth at a distant site
16 between the Virgin Islands and another United States jurisdiction without first complying
17 with the subchapter and without being a holder, of a Virgin Islands license to practice in
18 the person's respective area; and

19 (3) Telehealth services in the Virgin Islands must operate in accordance with
20 current accepted core standards for telehealth operations.

21 **§ 45e. Regulation of Telehealth Licensure**

22 The Board responsible for the licensure of each respective area of practice may establish
23 regulations for telehealth licensure as follows:

1 (a) The respective Board which is tasked with licensure of other medical and
2 behavioral health professionals, including the Virgin Islands Board of Medical
3 Examiners, Dental Examiners, Nurse Licensure, Pharmacy, Optometrical Examiners,
4 Physical Therapy, Chiropractic Examiners, Podiatry Examiners, Psychology Examiners,
5 Naturopathic Physicians, Social Work Licensure, and Licensed Counselors and
6 Examiners, shall develop criteria for issuance, and issuing telehealth or telemedicine
7 licenses within their respective fields.

8 (b) The respective Board shall issue a telehealth\telemedicine license to authorize
9 physicians and other telehealth providers, who hold a full and unrestricted license to
10 practice medicine in another state or territory of the United States, to provide telehealth
11 services in the Virgin Islands. A telehealth licenses does not convey license reciprocity
12 in the Virgin Islands. Any provider licensed to provide telehealth in the Virgin Islands
13 may practice telemedicine without restriction in accordance with the provider's
14 respective telehealth license as granted by their respective Board.

15 (c) The respective Board shall establish regulations the requirements for
16 telemedicine or telehealth provider licensure in accordance with this subchapter, but the
17 regulations including the following:

18 (1) A physician or other telehealth provider holding only a telehealth license
19 under this subchapter may not open an office in the Virgin Islands may not meet with
20 patients in the Virgin Islands. and may not receive calls from patients in the Virgin
21 Islands.

22 (2) The use of occasional services of qualified consultant psychologists or
23 licensed counselors from another state or jurisdiction is permissible and does not

1 constitute the unlawful practice of psychology, professional counseling, marriage and
2 family therapy, or substance abuse counseling.

3 (3) Telehealth providers holding a telehealth license shall comply with all rules
4 of professional conduct and with requirements established in state and federal statutes
5 relevant to their field and must establish and maintain current competence in their
6 professional practice through continuing education, consultation, or other procedures, in
7 conformance with prevailing standards of scientific and professional knowledge.

8 (4) A physician, when examining a patient by telemedicine, shall establish a bona
9 fide physician-patient relationship by:

10 i. Establishing a relationship and coordinating with the patient's Virgin Islands-
11 licensed healthcare professional;

12 ii. Establishing a diagnosis using accepted medical practices including, but not
13 limited to, patient history, mental status and appropriate diagnostic and laboratory testing;

14 iii. Discussing with the patient any diagnosis as well as the risks and benefits of
15 various treatment options;

16 iv. Ensuring the availability for appropriate follow-up care; and

17 v. Fulfilling any other requirements as deemed appropriate and necessary by the
18 licensing Board.

19 (5) Licensees, whenever feasible, must use secure communications with clients,
20 such as encrypted text messages via email or secure websites and obtain and document
21 consent for the use of non-secure communications.

22 (6) Any physician or other telehealth provider licensed to practice telehealth in
23 accordance with this subchapter, is subject to the provisions of this subchapter, the
24 jurisdiction of the respective Board, other applicable Virgin Islands law, and the

1 jurisdiction of the courts of the Virgin Islands with respect to providing health related
2 services to Virgin Islands residents.

3 (7) The Department of Health, the Territory’s hospitals and medical centers and
4 Virgin Islands-licensed health care professionals may bill third party payers for
5 consultations and follow-up care provided by licensed providers of telehealth services.

6 **§ 45f. Out-of-Territory Telehealth Providers**

7 Except as provided in §45e of this subchapter, health care professionals not licensed in
8 this Territory may provide health care services to patients located in this Territory using
9 telehealth if the health care provider receives a telehealth license from their applicable Board
10 in the Virgin Islands, or the Department if there is no Board, and the health care professional
11 provides health care services within the applicable scope of practice established by Virgin
12 Islands law.

13 **§ 45g. Registration of Telehealth Providers**

14 (1) All existing health care providers licensed within the Virgin Islands and practicing
15 telehealth shall register as a telehealth provider by completing a one-page form with the
16 Department of Health, established by the Department of Health.

17 (2) Applicants in the Virgin Islands not currently licensed as health care providers shall
18 complete their telehealth registration at the time of licensing by their respective Board.

19 (3) Out-of-the-Territory healthcare providers who are granted telehealth licensure must
20 be reported to Department of Health by their licensing board.

21 (4) Every Board shall regularly provide the Department of Health with a list of all
22 telehealth providers licensed to provide telehealth by the Board.

1 (5) Tele-healthcare applicants that do not have an operative regulatory Board under
2 this title shall register as a telehealth provider through Department of Health at the time of
3 licensing, on a form established by Department of Health.

4 (6) The Department of Health shall assess the number of telehealth providers in the
5 Territory on an annual basis and list all telehealth providers on their website.

6 **§ 45h. Exemptions**

7 A health care professional who is not licensed to provide telehealth services in the
8 Virgin Islands but who holds an active license to provide health care services in another state
9 or jurisdiction, and who is able to provide health care services using telehealth to a patient
10 located in the Virgin Islands, is not subject to the telehealth licensure requirement under this
11 subchapter if the services are provided:

12 (1) In response to an emergency medical condition or state of emergency as defined in
13 §45c of this subchapter; and

14 (2) In consultation with a health care professional licensed in the Virgin Islands who
15 has ultimate authority over the diagnosis and care of the patient.

16 **§ 45i. Telehealth Medical Malpractice and Liability Insurance; requirement**

17 A physician or health care provider registered as a telehealth provider and providing or
18 practicing telehealth under this subchapter shall maintain medical malpractice or professional
19 liability coverage that includes coverage of financial responsibility for telehealth services
20 provided to patients in this Territory and in the health care provider's state, District of Columbia
21 or any other territory of the United States.

22 **§ 45j. Informed Consent**

23 Prior to the delivery of health care via telehealth, the healthcare provider initiating the
24 use of telehealth shall inform the patient about the use of telehealth and obtain verbal or written

1 consent from the patient for the use of telehealth as an acceptable mode of delivering health
2 care services and public health. The consent must be documented in the patient’s medical
3 record. Telehealth providers must meet the following requirements:

4 (1) No medical treatment may be administered to a client without informed consent
5 except in an emergency situation or circumstances otherwise authorized by law.

6 (2) Treatment may be initiated without informed consent if there is documentation
7 within the patient’s health record that authorizes emergency treatment or an emergency exists
8 where there is an unanticipated condition in which immediate action is necessary and it is
9 impracticable to obtain the required consent for preservation of life or the prevention of serious
10 bodily harm to the client or others or to alleviate severe physical pain; but any action taken by
11 the telehealth provider without informed consent is within the customary practice of telehealth
12 providers of good standing in similar circumstances.

13 (3) It is the responsibility of a telehealth provider to determine the information a
14 reasonable person in the patient’s condition and circumstances would consider material to a
15 decision to accept or refuse a proposed treatment or procedure. The disclosure of any material
16 information and obtaining informed consent is the responsibility of the telehealth provider.

17 (4) Informed consent must include an explanation by a physician or health care
18 provider of the patient’s right to refuse or accept medical treatment.

19 (5) Once an initial informed consent is obtained which establishes a provider-patient
20 relationship, a telehealth provider is not required to obtain informed consent each time a
21 telehealth visit is conducted, or a treatment or procedure is administered unless the treatment
22 or procedure was not covered by the initial informed consent or material circumstances, or risks
23 change.

1 (6) If the patient refuses consent for the use of telehealth services, no telehealth
2 provider may tender the service or bill the patient for said consultation, once that service is
3 refused.

4 (7) If the patient is a minor or a person who is adjudicated incompetent, these
5 requirements apply to the patient’s conservator, guardian, or legal representative.

6 (8) The failure of a healthcare provider to comply with this section constitutes
7 unprofessional conduct subject to penalties and fines established in this subchapter.

8 **§ 45k. Internet Diagnosis and Treatment**

9 (a) When a physician or health care provider uses telehealth or telemedicine to
10 diagnose or treat a patient located in the Virgin Islands, the physician or health care provider
11 may not provide treatment recommendations, including issuing a prescription, unless the
12 following requirements are met:

13 (1) The physician or health care provider is licensed to practice medicine and registered
14 as a telehealth provider as required under sections 45d and 45g of this subchapter;

15 (a) The physician’s or health care provider’s name and contact information have been
16 made available to the patient;

17 (b) Informed consent as required under section 45j of this subchapter is obtained from the
18 patient;

19 (c) A documented patient evaluation has been performed;

20 (d) A patient evaluation meets or exceeds the standard of minimally competent medical
21 practitioner; and

22 (e) A patient health care record is prepared and maintained.

23 (2) **(b)** Telehealth providers may use telehealth to perform a patient evaluation. During an initial
24 patient visit a telehealth provider may conduct a patient evaluation sufficient to diagnose and

1 treat the patient, and the telehealth provider ~~is required to~~ shall survey the patient's medical
2 history or conduct a questionnaire examination of the patient before using telehealth to provide
3 health care services to the patient.

4 (3) Telehealth or telemedicine ~~can be~~ may be provided through electronic means, but it is the
5 intent of ~~the Telehealth Act~~ this subchapter to mitigate geographic discrimination in the
6 delivery of health care by recognizing the application of and payment for covered medical care
7 provided by means of telehealth only if such services are provided by a physician or by another
8 health care practitioner or professional acting within the scope of practice of such physician or
9 health care provider.

10 (a) A ~~physician or health care provider~~ Telehealth providers licensed to practice
11 within ~~his or her~~ their respective scope of practice. ~~shall be~~ are held to the same
12 standards of practice and conduct, including patient confidentiality and record
13 keeping, regardless of whether health care services are provided in person or by
14 telehealth.

15 (4) A telehealth provider has the duty to practice in a manner consistent ~~with his or her~~ ~~of~~
16 the practice and the prevailing professional standard of practice for a health care professional
17 who provides in-person health care services to patients in this Territory. However, providing
18 treatment recommendations, including issuing a prescription, based only on a static electronic
19 questionnaire does not meet the standard of minimally competent medical practice.

20
21 (5) A physician or health care provider licensed to practice medicine or who provides health
22 care services by telehealth is responsible for the quality and safe use of equipment and
23 technology that is integral to patient diagnosis and treatment. The equipment and technology
24 used by the physician or health care provider to provide health care services by telehealth must

1 comply with the federal Health Information Technology for Economic Health Act (HITECH)
2 and HIPAA Privacy Security and Breach Notification Rules.

3 (6) ~~However, providing treatment recommendations, including issuing a prescription,~~
4 ~~based only on a static electronic questionnaire does not meet the standard of minimally~~
5 ~~competent medical practice.~~

6 **§ 45l. Patient Health Records**

7 (1) A telehealth provider shall document in the patient’s medical record the health care services
8 rendered using telehealth according to the same standard as used for in-person services.
9 Medical records, including video, audio, electronic, or other records generated as a result of
10 providing such services, are confidential and shall meet federal requirements for Electronic
11 Health Record (EHR) under the HITECH Act and HIPAA Privacy, Security and Breach
12 Notification Rules.

13 (2) Any telehealth provider who holds a telehealth license or is permitted to practice telehealth
14 in accordance with the provisions of this ~~Act~~ subchapter ~~shall be is~~ deemed to have consented
15 to produce any health record or any material or report as requested by the applicable Virgin
16 Islands Board, or Department of Health if there is no Board, ~~provided that if~~ such production
17 does not violate EHR, HITECH Act and HIPAA, and protects the confidentiality and rights of
18 the patient.

19 **§ 45m. Insurer**

20 (1) Each insurer proposing to issue a health benefit policy in the Territory shall provide
21 coverage for the cost of health care services provided through telehealth or telemedicine.

22 (2) An insurer ~~shall~~ may not exclude a service for coverage solely because the service is
23 provided through telehealth unless the service is not appropriate for telehealth.

1 (3) No insurer **shall have has** the right to mandate which telemedicine platform is to be used
2 in order to be reimbursed. ~~Furthermore, a~~ All insurers must **be** reimbursed for telehealth and
3 telemedicine services as long as the platform used is a HIPAA Compliant.

4 (4) An insurer shall reimburse the telehealth provider for the diagnosis, consultation, or
5 treatment of the insured delivered through telehealth or telemedicine services on the same basis
6 and at least at the rate that the insurer is responsible for coverage for the provision of the same
7 service through in-person consultation or contact.

8 (e) Payment for telehealth or telemedicine interactions ~~shall~~ **must** include reasonable
9 compensation to the originating or distant site for the transmission fees incurred during the
10 delivery of health care services, if applicable. The originating site is eligible for a facility fee.
11 Telehealth providers eligible for the originating and distant site facility fee include ~~but are not~~
12 **limited to:**

- 13 a.(1) Physicians;
- 14 b. (2) Clinics
- 15 c.(3) Department of Health
- 16 d. Federal Qualified Health Centers
- 17 e. Physician Group Practices
- 18 f. Wellness Centers
- 19 g. Hospitals
- 20 h. Dental Practices; and
- 21 i. Clinical Providers

22 No insurer ~~shall~~ **may** impose any annual or lifetime dollar maximum on coverage for
23 telehealth or telemedicine services other than an annual or lifetime dollar maximum that applies
24 in the aggregate to all items and services covered under the policy or impose upon any person

1 receiving benefits pursuant to this section any co-payment, coinsurance, or deductible amounts,
2 or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum
3 for benefits or services, that is not equally imposed upon all terms and services covered under
4 the health benefit policy.

5 (6) No insurer ~~shall~~ may require the policy holder to use telehealth services in lieu of in-person
6 consultation or contact.

7 (7) Every health benefit policy that is issued, amended, or renewed ~~shall~~ must include payment
8 for services that are covered under such health benefit policy and are appropriately provided
9 through telemedicine or telehealth in accordance with this section and generally accepted health
10 care practices and standards prevailing in the applicable professional community at the time
11 the services were provided. The coverage required in this subchapter may be subject to all terms
12 and conditions of the applicable health benefit plan. Telehealth and telemedicine coverage ~~will~~
13 ~~must~~ follow services recognized by CMS and the American Medical Association (AMA).

14 (8) An insurance carrier shall provide coverage for any medically necessary health care service
15 delivered through telehealth subject to the following:

16 (1) The health care service is otherwise covered under an enrollee's health plan.

17 (2) The health care service delivered by telehealth is of comparable quality to the health
18 care service delivered through in-person consultation.

19 (a) (3) Prior authorization is required for telehealth services only if prior authorization is
20 required for the corresponding covered health care service.

21 An in-person consultation prior to the delivery of services through telehealth is not
22 required.

23 (b) Coverage for telehealth services is not limited in any way on the basis of geography,
24 location or distance for travel.

1 (c) The carrier shall require that a clinical evaluation is conducted either in person or
2 through telehealth before a provider may write a prescription that is covered.

3 (d) The carrier shall provide coverage for the treatment of ~~2~~ two or more persons who are
4 enrolled in the carrier's health plan at the same time through telehealth, including
5 counseling for substance use disorders involving opioids.

6 **§ 45n. Rule-Making Authority on the Practice of Telehealth and Telemedicine**

7 The respective Board, or Department of Health if there is no Board, ~~is hereby empowered to~~
8 ~~may implement rules and~~ regulations as are necessary to enforce the provisions of this Act
9 subchapter or as required by the practice of telemedicine in the Virgin Islands. In regulating all
10 that pertains to telehealth and telemedicine, the Board, or Department if there is no Board
11 shall take into consideration the comments, suggestions, and recommendations of academia,
12 groups, and associations that represent physicians and health care providers, without
13 constituting a limitation to its rule making authority over said matters.

14 **§ 45o. Telemedicine and Prescriptions**

15 ~~(1)~~ (a) Under federal law and the Haight Online Pharmacy Consumer Protection Act of 2008
16 (Ryan Haight Act; P. L. 110-425 , 122 Stat. 4820 , 21 USCS § 801) the practice of telemedicine
17 allows a health care practitioner to prescribe a controlled substance ~~via~~ by telemedicine without
18 performing an in-person medical examination of the patient. ~~Notwithstanding federal law,~~
19 ~~telehealth providers can prescribe~~ medications but are restricted ~~under the Telehealth Act~~
20 from prescribing controlled substances according to the requirements of this section.

21 ~~(2)(b)~~ A telehealth provider may not use telemedicine to prescribe a controlled substance
22 unless the U.S. Drug Enforcement Administration (DEA) regulations are met, and the
23 controlled substance is prescribed for the following:

24 ~~a.~~ (1) The treatment of a psychiatric disorder;

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

7 **(3)** (c)The Department, in conjunction with any regulatory Board, may modify rules and
8 procedures described under section 45c of this subchapter, as necessary to ensure that
9 reimbursement for telehealth services is provided in a cost-effective manner and only in
10 circumstances in which the provision of those services is clinically effective.

11 **§ 45p. Penalties**

12 Any person who violates any of the provisions of this subchapter or any ~~R~~regulations
13 adopted thereunder ~~shall be~~ is subject to fines or penalties and any telehealth providers'
14 license to practice telehealth may be revoked or suspended as determined by the respective
15 regulatory
16 Board or Department of Health. The Department of Health or such Boards shall promulgate the
17 standards and enforcement for these fines or penalties through its rules and regulations.

18 (1) Each regulatory Board, or Department of Health may take disciplinary action against
19 telehealth providers if they:

- 20 a. Are unregistered or are not licensed in violation of this ~~Telehealth Act subchapter~~;
- 21 b. Fail to notify the applicable Board, or Department of Health, of any adverse actions
22 taken against their license within 30 days;
- 23 c. Have restrictions placed on or disciplinary action taken against their license in any
24 state or jurisdiction and failed to report such action within 30 days;

1 d. Violate any of the requirements of ~~—this subchapter or rules and~~ regulations
2 promulgated under this subchapter ~~in conjunction or compliance with this~~
3 ~~Telehealth Act:~~

4 e. Commits any act that constitutes grounds for disciplinary action including, ~~but not~~
5 ~~limited to, charges for felonies or misdemeanors, or sexual misconduct.~~

6 (2) Disciplinary action taken by a Board, or Department of Health may include suspension or
7 revocation of the provider's license or the issuance of a reprimand or letter of concern. .A
8 suspension may be accompanied by a corrective action plan as determined by the Board, or
9 Department of Health, the completion of which may lead to the suspended license being
10 reinstated according to rules adopted by the Board, or Department of Health.

11 **§ 45q. Severability; conflict of laws**

12 If any section or provision of this Act is held to be null and void or unconstitutional by
13 a court of competent jurisdiction, said holding shall not affect or invalidate the remaining
14 provisions of this Act. The effect of said holding shall be limited to the paragraph, section, part,
15 or provision thus held to be null and void or unconstitutional. If there is a conflict between this
16 subchapter and other laws, this subchapter controls.

17 **SECTION 2.** (a) ~~If not otherwise indicated, the provisions of this Act are effective~~
18 ~~upon enactment.~~ Registration of health care providers in the Territory ~~currently~~ operating
19 on the effective date of this act as telehealth providers shall must take place by September
20 2022 and continue thereafter.

21 (b) Each Board must develop and implement regulations to guide the issuance of telehealth
22 licensure no later than 60 days after ~~this measure is signed into law, after the effect date of~~
23 ~~this act.~~ Each Board must be prepared to issue telehealth licenses to qualified applicants no
24 later than 90 days after this measure is signed into law.

1 (c) ~~The Department of Health or such Boards shall promulgate the standards and~~
2 ~~enforcement for these fines or penalties through its rules and regulations no later than six~~
3 ~~(6) months from the enactment of this Act.~~

4 **BILL SUMMARY**

5 This bill repeals title 27 Virgin Islands Code, Chapter 1, Subchapter IIa and re-enacts it
6 as the Virgin Islands Telehealth Act which includes telemedicine and broadens the practice of
7 medicine in the Virgin Islands through telehealth. This Act expands the types of services a
8 patient can receive using telehealth and ensures that insurers cover these service and providers
9 can receive reimbursement for these services. The Act also establishes licensing and
10 registration requirements to practice telehealth and telemedicine and oversees individuals
11 practicing so they meet all applicable medical standards. The purpose of the Act is to continue
12 to guarantee that new technologies and services are implemented and made available to the
13 Virgin Islands community, which will ensure that the health care services rendered and offered
14 to the residents of these islands are of the highest quality and eliminate barriers to accessing
15 health care.

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