

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 342, As Amended in the Senate

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO TELEHEALTH; AMENDING SECTION 54-5703, IDAHO CODE, TO REVISE
2 DEFINITIONS AND TO DEFINE A TERM; AMENDING SECTION 54-5705, IDAHO CODE,
3 TO REVISE PROVISIONS REGARDING A PROVIDER-PATIENT RELATIONSHIP; AND
4 AMENDING SECTION 54-5711, IDAHO CODE, TO REVISE PROVISIONS REGARDING
5 MEDICAL RECORDS.
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 54-5703, Idaho Code, be, and the same is hereby
9 amended to read as follows:

10 54-5703. DEFINITIONS. As used in this chapter:

11 (1) "Asynchronous store and forward transfer" means the transmission
12 of a patient's health care information from an originating site to a provider
13 at a distant site over a secure connection that complies with state and fed-
14 eral security and privacy laws.

15 (2) "Distant site" means the site at which a provider delivering tele-
16 health services is located at the time the service is provided.

17 (3) "Originating site" means the location of a patient at the time tele-
18 health services are provided, including but not limited to a patient's home.

19 (4) "Provider" means ~~a person~~ any health care provider who is licensed,
20 required to be licensed, or, if located outside of Idaho, would be required
21 to be licensed if located in Idaho, pursuant to title 54, Idaho Code, to de-
22 liver health care consistent with his or her license.

23 (5) "Synchronous interaction" means real-time communication through
24 interactive technology that enables a provider and a patient at two (2) lo-
25 cations separated by distance to interact simultaneously through two-way
26 video and audio or audio transmission.

27 (6) "Telehealth services" means health care services provided by a
28 provider to a person through the use of electronic communications, infor-
29 mation technology, asynchronous store and forward transfer or synchronous
30 interaction between a provider at a distant site and a patient at an origi-
31 nating site. Such services include, but are not limited to, clinical care,
32 health education, home health and facilitation of self-managed care and
33 caregiver support, and the use of synchronous or asynchronous telecommuni-
34 cations technologies by a provider to deliver patient health care services,
35 including but not limited to assessment of, diagnosis of, consultation with,
36 treatment of, and remote monitoring of a patient; transfer of medical data;
37 patient and professional health-related education; public health services;
38 and health administration. The term "telehealth services" does not include
39 audio in isolation without access to and review of the patient's medical
40 records, electronic mail messages that are not compliant with the health
41 insurance portability and accountability act (HIPAA), or facsimile trans-
42 missions.

1 (7) "Telehealth technologies" means synchronous or asynchronous
2 telecommunications technologies capable of assisting a provider to deliver
3 patient health care services, including but not limited to assessment of,
4 diagnosis of, consultation with, treatment of, and remote monitoring of a
5 patient; transfer of medical data; patient and professional health-related
6 education; public health services; and health administration.

7 SECTION 2. That Section 54-5705, Idaho Code, be, and the same is hereby
8 amended to read as follows:

9 54-5705. PROVIDER-PATIENT RELATIONSHIP. (1) If a provider offering
10 telehealth services ~~in his or her practice~~ does not have an established
11 provider-patient relationship with a person seeking such services, the
12 provider shall take appropriate steps to establish a provider-patient rela-
13 tionship by use of two-way audio ~~and or~~ audio-visual interaction; provided
14 however, that the applicable Idaho community standard of care must be satis-
15 fied. Nothing in this section shall prohibit electronic communications:

16 (a) Between a provider and a patient with a preexisting provider-pa-
17 tient relationship;

18 (b) Between a provider and another provider concerning a patient with
19 whom the other provider has a provider-patient relationship;

20 (c) Between a provider and a patient where the provider is taking call
21 on behalf of another provider in the same community who has a provider-
22 patient relationship with the patient; or

23 (d) In an emergency.

24 (2) As used in this section, "emergency" means a situation in which
25 there is an occurrence that poses an imminent threat of a life-threatening
26 condition or severe bodily harm.

27 SECTION 3. That Section 54-5711, Idaho Code, be, and the same is hereby
28 amended to read as follows:

29 54-5711. MEDICAL RECORDS. ~~Any~~ A provider offering telehealth services
30 ~~as part of his or her practice~~ shall generate and maintain medical records
31 for each patient using ~~such~~ telehealth services in compliance with any
32 applicable state and federal laws, rules, and regulations, including the
33 health insurance portability and accountability act (HIPAA), P.L. 104-191
34 (1996), and the health information technology for economic and clinical
35 health act (HITECH), P.L. 111-115 (2009). Such records shall be accessible
36 to other providers, if the patient has given permission, and to the patient
37 in accordance with applicable laws, rules, and regulations.