LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature Second Regular Session - 2020

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 342, As Amended in the Senate

BY HEALTH AND WELFARE COMMITTEE

AN ACT
RELATING TO TELEHEALTH; AMENDING SECTION 54-5703, IDAHO CODE, TO REVISE DEFINITIONS AND TO DEFINE A TERM; AMENDING SECTION 54-5705, IDAHO CODE, TO REVISE PROVISIONS REGARDING A PROVIDER-PATIENT RELATIONSHIP; AND AMENDING SECTION 54-5711, IDAHO CODE, TO REVISE PROVISIONS REGARDING MEDICAL RECORDS.

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

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

54-5703. DEFINITIONS. As used in this chapter:
(1) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site over a secure connection that complies with state and federal security and privacy laws.
(2) "Distant site" means the site at which a provider delivering telehealth services is located at the time the service is provided.
(3) "Originating site" means the location of a patient at the time telehealth services are provided, including but not limited to a patient's home.
(4) "Provider" means a person any health care provider who is licensed, required to be licensed, or, if located outside of Idaho, would be required to be licensed if located in Idaho, pursuant to title 54, Idaho Code, to deliver health care consistent with his or her license.
(5) "Synchronous interaction" means real-time communication through interactive technology that enables a provider and a patient at two (2) locations separated by distance to interact simultaneously through two-way video and audio or audio transmission.
(6) "Telehealth services" means health care services provided by a provider to a person through the use of electronic communications, information technology, asynchronous store and forward transfer or synchronous interaction between a provider at a distant site and a patient at an originating site. Such services include, but are not limited to, clinical care, health education, home health and facilitation of self-managed care and caregiver support, and the use of synchronous or asynchronous telecommunications technologies by a provider to deliver patient health care services, including but not limited to assessment of, diagnosis of, consultation with, treatment of, and remote monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term "telehealth services" does not include audio in isolation without access to and review of the patient's medical records, electronic mail messages that are not compliant with the health insurance portability and accountability act (HIPAA), or facsimile transmissions.
(7) "Telehealth technologies" means synchronous or asynchronous telecommunications technologies capable of assisting a provider to deliver patient health care services, including but not limited to assessment of, diagnosis of, consultation with, treatment of, and remote monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration.

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

54-5705. PROVIDER-PATIENT RELATIONSHIP. (1) If a provider offering telehealth services in his or her practice does not have an established provider-patient relationship with a person seeking such services, the provider shall take appropriate steps to establish a provider-patient relationship by use of two-way audio and or audio-visual interaction; provided however, that the applicable Idaho community standard of care must be satisfied. Nothing in this section shall prohibit electronic communications:
(a) Between a provider and a patient with a preexisting provider-patient relationship;
(b) Between a provider and another provider concerning a patient with whom the other provider has a provider-patient relationship;
(c) Between a provider and a patient where the provider is taking call on behalf of another provider in the same community who has a provider-patient relationship with the patient; or
(d) In an emergency.
(2) As used in this section, "emergency" means a situation in which there is an occurrence that poses an imminent threat of a life-threatening condition or severe bodily harm.

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

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