

2023 Regular Session

SENATE BILL NO. 66

BY SENATOR FRED MILLS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH CARE. Provides relative to telehealth services. (1/1/24)

1 AN ACT  
2 To amend and reenact R.S. 22:11(C)(1)(a)(i), 1821(F)(1) and (2), 1841(3), 1842(A)(1) and  
3 (B), and 1843(A)(2) and (B)(1)(a)(ii) and (b)(i) and (iv), R.S. 28:53(B)(1), the  
4 introductory paragraph of 53(B)(4), 53(F), (G)(2), the introductory paragraph of  
5 53(G)(7)(a), the introductory paragraph of 53(G)(7)(b) and 53(G)(7)(b)(ii), and  
6 (J)(1), R.S. 37:1262(4), 1271, the introductory paragraph of 1271.1(A) and  
7 1271.1(A)(2) and (3), and 1285.2(D)(2), R.S. 40:1046(K), 1165.2(B), 1167.2(6),  
8 1167.4(E) and (F), 1223.2(3), 1223.3(3) and (5), 1223.4(A) and (B)(3), 1223.5,  
9 1237.1(A)(9)(a)(ii)(bb), and 2195.1(A)(6), and R.S. 46:978.1(2), to enact R.S.  
10 40:1223.4(B)(5), (6), and (7), and to repeal R.S. 22:1841(6) and R.S. 37:1276.1,  
11 relative to telehealth services; to provide for the practice of medicine or provision of  
12 health care or healthcare professional services through telehealth; to provide for  
13 definitions; to provide for updated terminology; to provide for rulemaking by  
14 occupation regulatory entities; to repeal provisions regarding telemedicine; to  
15 provide for an effective date; and to provide for related matters.

16 Be it enacted by the Legislature of Louisiana:

17 Section 1. R.S. 22:11(C)(1)(a)(i), 1821(F)(1) and (2), 1841(3), 1842(A)(1) and (B),

1 and 1843(A)(2) and (B)(1)(a)(ii) and (b)(i) and (iv) are hereby amended and reenacted to  
2 read as follows:

3 §11. Rules and regulations by commissioner

4 \* \* \*

5 C.(1) When the governor declares a state of emergency pursuant to R.S.  
6 29:724 or a public health emergency pursuant to R.S. 29:766, the commissioner may  
7 issue emergency rules or regulations that address any of the following related to  
8 insurance policies or health maintenance organization contracts in this state:

9 (a) Medical coverage relative to each of the following:

10 (i) Removal of telehealth ~~and telemedicine~~ access restraints.

11 \* \* \*

12 §1821. Payment of claims; health and accident policies; prospective review;  
13 penalties; self-insurers; ~~telemedicine~~ **telehealth** reimbursement by  
14 insurers; prohibitions

15 \* \* \*

16 F.(1) Notwithstanding any provision of any policy or contract of insurance  
17 or health benefits issued, whenever ~~such~~ **the** policy provides for payment, benefit,  
18 or reimbursement for any ~~health care~~ **healthcare** service, including but not limited  
19 to diagnostic testing, treatment, referral, or consultation, and ~~such health care~~ **the**  
20 **healthcare** service is performed via transmitted electronic imaging or ~~telemedicine~~,  
21 **telehealth**, ~~such a~~ **the** payment, benefit, or reimbursement under ~~such~~ **the** policy or  
22 contract shall not be denied to a licensed physician conducting or participating in the  
23 transmission at the originating ~~health care~~ **healthcare** facility or terminus who is  
24 physically present with the individual who is the subject of ~~such~~ **the** electronic  
25 imaging transmission and is contemporaneously communicating and interacting with  
26 a licensed physician at the receiving terminus of the transmission. The payment,  
27 benefit, or reimbursement to ~~such a~~ **the** licensed physician at the originating facility  
28 or terminus shall not be less than seventy-five percent of the reasonable and  
29 customary amount of payment, benefit, or reimbursement which that licensed

1 physician receives for an intermediate office visit.

2 (2) Any ~~health care~~ **healthcare** service proposed to be performed or  
3 performed via transmitted electronic imaging or ~~telemedicine under~~ **telehealth**  
4 **pursuant to** this Subsection shall be subject to the applicable utilization review  
5 criteria and requirements of the insurer. Terminology in a health and accident  
6 insurance policy or contract that either discriminates against or prohibits such a  
7 method of transmitted electronic imaging or ~~telemedicine~~ **telehealth** shall be void  
8 as against public policy of providing the highest quality health care to the citizens  
9 of the state.

10 \* \* \*

11 SUBPART B-1. MEDICAL CLAIMS FOR SERVICES

12 PROVIDED THROUGH TELEHEALTH ~~AND TELEMEDICINE~~

13 §1841. Definitions

14 For purposes of this Subpart, the following definitions apply:

15 \* \* \*

16 (3) "Platform" means the technology, system, software, application, modality,  
17 or other method through which a healthcare provider remotely interfaces with a  
18 patient when providing a healthcare service or procedure as a ~~telemedicine medical~~  
19 ~~service or~~ telehealth healthcare service.

20 \* \* \*

21 §1842. ~~Telemedicine medical services and telehealth~~ **Telehealth** healthcare services

22 statement

23 A.(1) Each issuer of a health coverage plan shall display in a conspicuous  
24 manner on the health coverage plan issuer's website information regarding how to  
25 receive covered ~~telemedicine medical services~~, telehealth healthcare services; and  
26 remote patient monitoring services.

27 \* \* \*

28 B. This Section shall not require an issuer of a health coverage plan to display  
29 negotiated contract payment rates for healthcare providers who contract with the

1 issuer to provide ~~telemedicine medical services~~ or telehealth healthcare services.

2 §1843. Remote patient monitoring services

3 A. The legislature hereby finds all of the following:

4 \* \* \*

5 (2) The goal of remote patient monitoring services provided through  
6 ~~telemedicine or telehealth~~ is to coordinate primary, acute, behavioral, and long-term  
7 social service needs for high need, high cost patients.

8 B. To receive reimbursement for the delivery of remote patient monitoring  
9 services through telehealth, all of the following conditions shall be met:

10 (1) The services shall consist of all of the following:

11 (a) An assessment, problem identification, and evaluation which includes all  
12 of the following:

13 \* \* \*

14 (ii) Detection of condition changes based on the ~~telemedicine or telehealth~~  
15 encounter that may indicate the need for a change in the plan of care.

16 (b) Implementation of a management plan through one or more of the  
17 following:

18 (i) Teaching regarding medication management as appropriate based on the  
19 ~~telemedicine or telehealth~~ findings for that encounter.

20 \* \* \*

21 (iv) Coordination of care with the ordering healthcare provider regarding the  
22 ~~telemedicine or telehealth~~ findings.

23 \* \* \*

24 Section 2. R.S. 28:53(B)(1), the introductory paragraph of 53(B)(4), 53(F), (G)(2),  
25 the introductory paragraph of 53(G)(7)(a), the introductory paragraph of 53(G)(7)(b) and  
26 53(G)(7)(b)(ii), and (J)(1) are hereby amended and reenacted to read as follows:

27 §53. Admission by emergency certificate; extension; payment for services rendered

28 \* \* \*

29 B.(1) Any physician licensed or permitted by the Louisiana State Board of

1 Medical Examiners, physician assistant when acting in accordance with their  
2 respective clinical practice guidelines, psychiatric mental health nurse practitioner,  
3 other nurse practitioner who acts in accordance with a collaborative practice  
4 agreement and receives verbal approval for executing the certificate from his  
5 collaborating physician, or psychologist may execute an emergency certificate only  
6 after an actual examination of a person alleged to have a mental illness or be  
7 suffering from a substance-related or addictive disorder who is determined to be in  
8 need of immediate care and treatment in a treatment facility because the examining  
9 physician, physician assistant when acting in accordance with their respective  
10 clinical practice guidelines, psychiatric mental health nurse practitioner, other nurse  
11 practitioner who acts in accordance with a collaborative practice agreement and  
12 receives verbal approval for executing the certificate from his collaborating  
13 physician, or psychologist determines the person to be dangerous to self or others or  
14 to be gravely disabled. The actual examination of the person by a psychiatrist or  
15 psychiatric mental health nurse practitioner may be conducted by ~~telemedicine~~  
16 **telehealth** utilizing video conferencing technology provided that a licensed  
17 healthcare professional who can adequately and accurately assist with obtaining any  
18 necessary information including but not limited to the information listed in  
19 Paragraph (4) of this Subsection shall be in the examination room with the patient  
20 at the time of the video conference. A patient examined in such a manner shall be  
21 medically cleared prior to admission to a mental health treatment facility. Failure to  
22 conduct an examination prior to the execution of the certificate will be evidence of  
23 gross negligence.

24 \* \* \*

25 (4) In the case of an emergency certificate issued pursuant to an examination  
26 conducted by ~~telemedicine~~ **telehealth** pursuant to Paragraph (1) of this Subsection  
27 and Paragraph (J)(1) of this Section, the licensed healthcare professional present  
28 during the actual examination shall be responsible for obtaining, recording, and  
29 attaching to the emergency certificate the following information regarding the video

1 conference:

2 \* \* \*

3 F. An emergency certificate shall constitute legal authority to transport a  
4 patient to a treatment facility and shall permit the director of such treatment facility  
5 to detain the patient for diagnosis and treatment for a period not to exceed fifteen  
6 days, and to return the patient to the facility if he is absent with or without  
7 permission during authorized periods of detention. If necessary, peace officers shall  
8 apprehend and transport, or ambulance services, under appropriate circumstances,  
9 may locate and transport, a patient on whom an emergency certificate has been  
10 completed to a treatment facility at the request of either the director of the facility,  
11 the certifying physician, physician assistant when acting in accordance with their  
12 respective clinical practice guidelines, psychiatric mental health nurse practitioner,  
13 other nurse practitioner who acts in accordance with a collaborative practice  
14 agreement and receives verbal approval for executing the certificate from his  
15 collaborating physician, or psychologist, the patient's next of kin, the patient's  
16 curator, or the agency legally responsible for his welfare. In the case of an  
17 emergency certificate issued pursuant to an examination conducted by ~~telemedicine~~  
18 **telehealth** pursuant to Paragraph (B)(1) of this Section, or where the valid original  
19 is not provided to the transporter, a copy transmitted by facsimile or other electronic  
20 device shall be sufficient authority for the peace officer or ambulance worker to  
21 transport the patient to a treatment facility and for the director to accept such patient.  
22 The psychiatrist shall cause the original certificate to be deposited in the United  
23 States mail properly addressed to the director of the treatment facility by the next  
24 business day following the date of examination. The director of the treatment facility  
25 shall notify the patient's nearest relative, if known, or designated responsible party,  
26 if any, in writing, of the patient's admission by emergency certificate as soon as  
27 reasonably possible.

28 G. \* \* \*

29 (2) Within seventy-two hours of admission, the person shall be independently

1 examined by the coroner or his deputy who shall execute an emergency certificate,  
 2 pursuant to Subsection B of this Section, which shall be a necessary precondition to  
 3 the person's continued confinement. Except as provided in Paragraph (7) of this  
 4 Subsection, if the actual examination by the psychiatrist referred to in Paragraph  
 5 (B)(1) of this Section is conducted by ~~telemedicine~~, **telehealth**, the seventy-two-hour  
 6 independent examination by the coroner shall be conducted in person.

7 \* \* \*

8 (7) As it relates to the parish of St. Tammany, all of the following shall apply:

9 (a) The coroner or deputy coroner, who is a physician, preferably a  
 10 psychiatrist, may conduct an examination and execute an emergency certificate, as  
 11 provided in Subparagraph (b) of this Paragraph, by ~~telemedicine~~ **telehealth** utilizing  
 12 video conferencing equipment, provided that all of the following are met:

13 \* \* \*

14 (b) The coroner or deputy coroner, who is a physician, preferably a  
 15 psychiatrist, may conduct an examination and execute an emergency certificate, as  
 16 provided in Subparagraph (a) of this Paragraph by ~~telemedicine~~ **telehealth** under all  
 17 of the following circumstances:

18 \* \* \*

19 (ii) If the coroner conducted the initial examination, pursuant to Paragraph  
 20 (3) of this Subsection, by ~~telemedicine~~ **telehealth** and has executed the first  
 21 emergency commitment certificate, a second examination shall be made in person  
 22 within the seventy-two hour period set forth in this Part by any psychiatrist,  
 23 psychiatric mental health nurse practitioner, or a psychologist at the treatment  
 24 facility where the person is confined.

25 \* \* \*

26 J.(1) Upon the request of a credible person of legal age who is financially  
 27 unable to afford a private physician or who cannot immediately obtain an  
 28 examination by a physician, the parish coroner may render, or the coroner or a judge  
 29 of a court of competent jurisdiction may cause to be rendered by a physician, an

1 actual examination of a person alleged to have a mental illness or be suffering from  
 2 a substance-related or addictive disorder and in need of immediate medical treatment  
 3 because he is dangerous to himself or others or is gravely disabled. The actual  
 4 examination of the person by a psychiatrist may be conducted by ~~telemedicine~~  
 5 **telehealth** utilizing video conferencing technology provided that a licensed  
 6 healthcare professional who can adequately and accurately assist with obtaining any  
 7 necessary information including but not limited to the information listed in  
 8 Paragraph (B)(4) of this Section shall be in the examination room with the patient  
 9 at the time of the video conference. If the coroner is not a physician he may deputize  
 10 a physician to perform this examination. To accomplish the examination authorized  
 11 by this Subsection, if the coroner or the judge is apprehensive that his own safety or  
 12 that of the deputy or other physician may be endangered thereby, he shall issue a  
 13 protective custody order pursuant to R.S. 28:53.2.

14 \* \* \*

15 Section 3. R.S. 37:1262(4), 1271, the introductory paragraph of 1271.1(A) and  
 16 1271.1(A)(2) and (3), and 1285.2(D)(2) are hereby amended and reenacted to read as  
 17 follows:

18 §1262. Definition

19 As used in this Part the following words and phrases shall have the meanings  
 20 ascribed to them:

21 \* \* \*

22 (4) ~~"Telemedicine" means the practice of health care delivery, diagnosis,~~  
 23 ~~consultation, treatment, and transfer of medical data by a physician using technology~~  
 24 ~~that enables the physician and a patient at two locations separated by distance to~~  
 25 ~~interact. Such technology may include electronic communications, information~~  
 26 ~~technology, asynchronous store-and-forward transfer technology, or technology that~~  
 27 ~~facilitates synchronous interaction between a physician at a distant site and a patient~~  
 28 ~~at an originating site. The term "telemedicine" shall not include any of the following:~~

29 (a) ~~Electronic mail messages and text messages that are not compliant with~~



1 applicable requirements of the Health Insurance Portability and Accountability Act  
2 of 1996, as amended 42 U.S.C. 1320d et seq.

3 (b) Facsimile transmissions:

4 **"Telehealth" shall have the same meaning as that term defined in R.S.**  
5 **40:1223.3.**

6 \* \* \*

7 §1271. License to practice medicine ~~or telemedicine~~ required

8 A. No **Except as provided in the Louisiana Telehealth Access Act, R.S.**  
9 **40:1223.1 et seq., no** person shall practice medicine as defined in this Part until he  
10 possesses a duly recorded license issued pursuant to this Part, a permit or registration  
11 as provided for in this Part, or a certificate issued pursuant to Part I-D of this  
12 Chapter.

13 B.(1) ~~No person shall practice or attempt to practice medicine across state~~  
14 ~~lines without first complying with the provisions of this Part and without being a~~  
15 ~~holder of either an unrestricted license to practice medicine in Louisiana or a~~  
16 ~~telemedicine license entitling him to practice medicine pursuant to R.S. 37:1276.1.~~

17 (2) ~~Except as provided in R.S. 37:1271.1 and 1276.1, all of the following~~  
18 ~~shall apply to any physician practicing telemedicine as defined in this Part:~~

19 (a) ~~The physician practicing telemedicine shall use the same standard of care~~  
20 ~~as if the healthcare services were provided in person.~~

21 (b) ~~The physician practicing telemedicine shall not be required to conduct an~~  
22 ~~in-person patient history or physical examination of the patient before engaging in~~  
23 ~~a telemedicine encounter if the physician satisfies all of the following conditions:~~

24 (i) ~~Holds an unrestricted license to practice medicine in Louisiana.~~

25 (ii) ~~Has access to the patient's medical records upon consent of the patient.~~

26 (iii) ~~Creates a medical record on each patient and makes such record available~~  
27 ~~to the board upon request.~~

28 (iv) ~~If necessary, provides a referral to a physician in this state or arranges for~~  
29 ~~follow-up care in this state as may be indicated.~~

1                   (3) ~~Except as authorized by R.S. 37:1271.1 or otherwise by rule promulgated~~  
 2 ~~by the board, no physician practicing telemedicine pursuant to this Subsection shall~~  
 3 ~~prescribe any controlled dangerous substance prior to conducting an appropriate~~  
 4 ~~in-person patient history or physical examination of the patient as determined by the~~  
 5 ~~board.~~

6                   (4) (a) ~~A patient receiving telemedicine services may be in any location at the~~  
 7 ~~time that the telemedicine services are rendered. A physician practicing telemedicine~~  
 8 ~~may be in any location when providing telemedicine services to a patient.~~

9                   (b) ~~A physician practicing telemedicine may utilize interactive audio without~~  
 10 ~~the requirement of video if, after access and review of the patient's medical records,~~  
 11 ~~the physician determines that he is able to meet the same standard of care as if the~~  
 12 ~~healthcare services were provided in person.~~

13                   (5) ~~A physician practicing telemedicine shall document the telemedicine~~  
 14 ~~services rendered in the patient's medical records according to the same standard as~~  
 15 ~~that required for nontelemedicine services. Medical records including but not limited~~  
 16 ~~to video, audio, electronic, or other records generated as a result of providing~~  
 17 ~~telemedicine services shall be considered as confidential and shall be subject to all~~  
 18 ~~applicable state and federal laws and regulations relative to the privacy of health~~  
 19 ~~information.~~

20                   (6) ~~Venue in any suit filed involving care rendered via telemedicine shall be~~  
 21 ~~in accordance with the provisions of R.S. 40:1223.5.~~

22 §1271.1. ~~Practice of telemedicine~~ **Physician utilization of telehealth** in licensed  
 23 healthcare facilities

24                   A. All of the following restrictions and authorizations apply to a physician  
 25 who holds an unrestricted license to practice medicine from the board and who  
 26 ~~practices telemedicine upon~~ **utilizes telehealth for** any patient who is being treated  
 27 at a healthcare facility that is required to be licensed pursuant to the laws of this state  
 28 and which holds a current registration with the United States Drug Enforcement  
 29 Administration:

\* \* \*

(2) The physician ~~shall be authorized to~~ **may** prescribe any controlled dangerous substance without necessity of conducting an appropriate in-person patient history or physical examination of the patient as otherwise would be required by ~~R.S. 37:1271(B)(2)~~ **R.S. 40:1223.4**.

(3) The physician shall not be subject to any regulatory prohibition or restriction on the ~~practice of telemedicine;~~ **utilization of telehealth,** including prohibitions or restrictions related to prescribing controlled dangerous substances, which are in any manner more restrictive than the prohibitions and restrictions that are otherwise applicable to the entire practice of medicine.

\* \* \*

§1285.2. Investigations and adjudications; staff; complaints; board procedure; rulemaking authority

\* \* \*

D.

\* \* \*

(2) The provisions of Paragraph (1) of this Subsection shall apply to practice performance reviews of physicians ~~practicing telemedicine;~~ **utilizing telehealth.**

\* \* \*

Section 4. R.S. 40:1046(K), 1165.2(B), 1167.2(6), 1167.4(E) and (F), 1223.2(3), 1223.3(3) and (5), 1223.4(A) and (B)(3), 1223.5, 1237.1(A)(9)(a)(ii)(bb), and 2195.1(A)(6) are hereby amended and reenacted and R.S. 40:1223.4(B)(5), (6), and (7) are hereby enacted to read as follows:

§1046. Recommendation and dispensing of marijuana for therapeutic use; rules and regulations of the Louisiana Board of Pharmacy; production facility licensing; permitting by the Louisiana Department of Health

\* \* \*

K. Nothing in this Part shall be construed or enforced in any manner that prevents ~~a physician~~ **a clinician** authorized by Subsection A of this Section to recommend therapeutic marijuana from recommending therapeutic marijuana

1 through ~~telemedicine~~, **telehealth**, as defined in ~~R.S. 37:1262~~, **R.S. 40:1223.3** in this  
2 state.

3 \* \* \*

4 §1165.2. Health Care Information Technology and Infrastructure Advisory  
5 Collaborative; membership; powers and duties; annual report

6 \* \* \*

7 B. The legislature hereby establishes the Health Care Information  
8 Technology and Infrastructure Collaborative to be composed of LARHIX, the Health  
9 Information Technology Committee of the Louisiana Health Care Quality Forum and  
10 any other current or future regional health information exchange, hereinafter referred  
11 to in this Section as "collaborative." The collaborative shall advise the secretary of  
12 the Louisiana Department of Health on strategies for the advancement of the use of  
13 electronic health information technology through the identification of state laws and  
14 regulations that impede such advancement, including but not limited to those laws  
15 and regulations that concern the form of consent to medical treatment and  
16 authorization for other health care transactions, and matters related to facilitation of  
17 ~~telemedicine~~ **telehealth** consultations.

18 \* \* \*

19 §1167.2. Legislative findings; purpose

20 The legislature finds that:

21 \* \* \*

22 (6) In 2007, the state authorized the secretary to enter into a Cooperative  
23 Endeavor Agreement ("CEA") with the Rural Hospital Coalition, Inc. (the  
24 "Coalition"), for the establishment of the Louisiana Rural Health Information  
25 Exchange (LARHIX), a multi-regional health care information exchange. With the  
26 funding provided, seven rural hospitals acquired EHR technology and were linked  
27 to Louisiana State University Health Sciences Center - Shreveport (LSUHSC-S) via  
28 a state-of-the-art integration engine, permitting a panel of specialists to access a rural  
29 patient's medical record in real time while consulting with the patient over the

1       ~~telemedicine~~ **telehealth** equipment located at the rural hospital. In 2008, the state  
 2       entered into a five-year CEA with the Coalition and provided funding to expand the  
 3       network to seven additional rural hospitals. LARHIX has been honored as a network  
 4       model with multiple award nominations by national technology organizations.

\*       \*       \*

6       §1167.4. Establishment of the Electronic Health Records Loan Program

7       \*       \*       \*

8               E. The secretary is authorized to enter into CEAs to facilitate with any entity  
 9       access to the ARRA loan program funding and to make loans to eligible providers  
 10      to provide for the acquisition and implementation of certified EHR technology by  
 11      eligible providers, and where integrated, ~~telemedicine~~ **telehealth** technology.

12              F. To provide for the expansion and administration of LARHIX and other  
 13      related matters, the secretary shall enter into a CEA with the Coalition, the terms of  
 14      which shall govern the program's loans made available to rural hospitals, and with  
 15      the secretary's approval, to other rural health care providers who have elected to  
 16      partner with rural hospitals in the acquisition of certified EHR technology. For  
 17      purposes of this Subsection and to the extent permitted by the ARRA, certified EHR  
 18      technology will include ~~telemedicine~~ **telehealth** technology which such technology  
 19      is fully integrated with the certified EHR technology acquired by the hospital.

20      \*       \*       \*

21      §1223.2. Legislative findings

22              The legislature hereby finds and declares the following:

23      \*       \*       \*

24              (3) Telehealth services could potentially address a great unmet need for  
 25      health care by persons who have limited access to ~~both~~ traditional healthcare settings  
 26      and to ~~telemedicine as currently defined in Louisiana law~~.

27      \*       \*       \*

28      §1223.3. Definitions

29              As used in this Part, the following terms have the meaning ascribed in this

1 Section:

2 \* \* \*

3 (3) "Healthcare provider" means a person, partnership, limited liability  
4 partnership, limited liability company, corporation, facility, or institution licensed  
5 or certified by this state to **practice medicine or provide healthcare health care** or  
6 **healthcare** professional services as a ~~physician assistant; hospital; nursing home;~~  
7 ~~dentist; registered nurse; advanced practice registered nurse; licensed dietitian or~~  
8 ~~nutritionist; licensed practical nurse; certified nurse assistant; offshore health service~~  
9 ~~provider; ambulance service; licensed midwife; pharmacist; speech-language~~  
10 ~~pathologist; audiologist; optometrist; podiatrist; chiropractor; physical therapist;~~  
11 ~~occupational therapist; certified or licensed athletic trainer; psychologist; medical~~  
12 ~~psychologist; social worker; licensed professional counselor; licensed perfusionist;~~  
13 ~~licensed respiratory therapist; licensed radiologic technologist; licensed hearing aid~~  
14 ~~dealer; licensed, certified, or registered addiction counselor; licensed, certified, or~~  
15 ~~registered prevention professional; certified compulsive gambling counselor;~~  
16 ~~behavioral health provider who works for a licensed agency or credentialed provider~~  
17 ~~which provides community psychiatric support and treatment services or~~  
18 ~~psychosocial rehabilitation services as defined in R.S. 40:2162; or licensed clinical~~  
19 ~~laboratory scientist~~ **which may be provided by telehealth in the ordinary course**  
20 **of business or practice of a profession.**

21 \* \* \*

22 (5) "Synchronous interaction" means communication through interactive  
23 technology that enables a healthcare provider and a patient at two locations separated  
24 by distance to interact via two-way video and audio transmissions simultaneously.  
25 ~~The healthcare provider may utilize interactive audio without the requirement of~~  
26 ~~video if, after access and review of the patient's medical records, the provider~~  
27 ~~determines that he is able to meet the same standard of care as if the healthcare~~  
28 ~~services were provided in person.~~

29 \* \* \*

1 §1223.4. Telehealth; rulemaking required

2 A. Each state agency or professional or occupational licensing board or  
3 commission that regulates the practice of a healthcare provider, as defined in this  
4 Part, ~~may~~ **shall** promulgate, in accordance with the Administrative Procedure Act,  
5 any rules necessary to provide for, promote, and regulate the use of telehealth in the  
6 delivery of healthcare services within the scope of practice regulated by the licensing  
7 entity. However, any rules and regulations shall be consistent with and no more  
8 restrictive than the provisions contained in this Section.

9 B. The rules shall, at a minimum, provide for all of the following:

10 \* \* \*

11 (3)(a) Licensing or registration of out-of-state healthcare providers who seek  
12 to furnish healthcare services via telehealth to persons at originating sites in  
13 Louisiana. The rules shall ensure that ~~any such~~ **the** healthcare provider possesses, at  
14 a minimum, an unrestricted and unencumbered license in good standing to perform  
15 the healthcare service in the state in which the healthcare provider is located, and that  
16 the license is comparable to its corresponding license in Louisiana as determined by  
17 the respective Louisiana licensing agency, board, or commission.

18 (b) Each state agency and professional or occupational licensing board or  
19 commission ~~is authorized to~~ **may** provide by rule for a reasonable fee for the license  
20 or registration provided for in this Subsection.

21 \* \* \*

22 **(5) Except as otherwise provided in Paragraph (6) of this Subsection, a**  
23 **healthcare provider shall not be required to conduct an in-person patient**  
24 **history or physical examination of the patient before engaging in a telehealth**  
25 **encounter but shall provide a referral to a healthcare provider in this state or**  
26 **arrange for follow-up care in this state as necessary.**

27 **(6) Except as authorized by R.S. 37:1271.1 or otherwise by rule**  
28 **promulgated by a state agency or professional or occupational licensing board**  
29 **or commission, no healthcare provider shall prescribe any controlled dangerous**

1 substance prior to conducting an appropriate in-person patient history or  
 2 physical examination of the patient as determined by the appropriate state  
 3 agency or professional or occupational licensing board or commission.

4 (7) A healthcare provider may use interactive audio without the  
 5 requirement of video if, after access and review of the patient's medical records,  
 6 the healthcare provider determines that he is able to meet the same standard of  
 7 care as if the healthcare services were provided in person.

8 \* \* \*

9 §1223.5. Venue; telehealth and telemedicine

10 Venue in any suit filed involving care rendered via telehealth pursuant to the  
 11 provisions of this Part ~~or telemedicine pursuant to the provisions of R.S. 37:1271(B)~~  
 12 shall be proper and instituted before the district court of the judicial district in which  
 13 the patient resides or in the district court having jurisdiction in the parish where the  
 14 patient was physically located during the provision of the telehealth ~~or telemedicine~~  
 15 service. The patient is considered physically located at the originating site as defined  
 16 in R.S. 40:1223.3.

17 \* \* \*

18 §1237.1. Definitions and general application

19 A. As used in this Part:

20 \* \* \*

21 (9)(a) "State health care provider" or "person covered by this Part" means:

22 \* \* \*

23 (ii) A person acting in a professional capacity in providing health care  
 24 services, by or on behalf of the state, including but not limited to a physician,  
 25 psychologist, coroner, and assistant coroner who is a licensed physician when acting  
 26 solely in accordance with the Behavioral Health Law as provided in R.S. 28:50 et  
 27 seq., provided that the premium costs of such malpractice coverage shall be the  
 28 responsibility of the coroner's office, dentist, a licensed dietician or licensed  
 29 nutritionist employed by, referred by, or performing work under contract for, a state



1 health care provider or other person already covered by this Part, registered nurse,  
 2 licensed practical nurse, nurse practitioner, clinical nurse specialist, pharmacist,  
 3 optometrist, podiatrist, physical therapist, occupational therapist, licensed respiratory  
 4 therapist, licensed radiologic technologist, licensed clinical laboratory scientist,  
 5 social worker, hospital administrator, or licensed professional counselor, who is  
 6 either:

7 \* \* \*

8 (bb) Performing voluntary professional or ~~telemedicine~~ **telehealth** services  
 9 in a health care facility or institution for or on behalf of the state.

10 \* \* \*

11 §2195.1. State office of rural health

12 A. Within the Louisiana Department of Health, the Louisiana state office of  
 13 rural health shall:

14 \* \* \*

15 (6) Provide statewide technical assistance in conjunction with the Louisiana  
 16 Rural Health Association on establishment of rural health clinics and on grant  
 17 writing, especially related to rural health outreach grants, ~~telemedicine~~ **telehealth**  
 18 grants, and other grants available to increase rural health access.

19 \* \* \*

20 Section 5. R.S. 46:978.1(2) is hereby amended and reenacted to read as follows:

21 §978.1. Definitions

22 As used in this Chapter, the following definitions shall apply:

23 \* \* \*

24 (2) "Health information technology" shall mean information technology used  
 25 in health care, including but not limited to electronic health ~~records/electronic~~  
 26 **records or electronic** medical records, computerized physician order entry, health  
 27 information exchange, ~~telemedicine~~ **telehealth**, and other relevant information  
 28 technology deemed appropriate by the secretary of the department.

29 \* \* \*

1 Section 6. R.S. 22:1841(6) and R.S. 37:1276.1 are hereby repealed.

2 Section 7. This Act shall become effective on January 1, 2024.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Brandi Cannon.

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DIGEST

SB 66 Reengrossed

2023 Regular Session

Fred Mills

Present law provides for the practice of telemedicine by physicians and the practice of telehealth by all other healthcare providers. Proposed law repeals provisions relative to telemedicine and specifies that telehealth includes a physician's practice of medicine when conducted through electronic communications.

Present law authorizes each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider to promulgate any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity. Proposed law changes the authorization to a requirement for the state agency or professional or occupational licensing board or commission to promulgate rules for telehealth.

Present law provides for the minimum content of the rules to be promulgated by the regulatory state agency or professional or occupational licensing board or commission. Proposed law retains present law and adds a prohibition on any requirement for an in-person patient history or physical examination of the patient before engaging in a telehealth encounter unless the healthcare provider is prescribing a controlled dangerous substance. Proposed law further provides for exceptions to the requirement for an in-person patient history or physical examination when prescribing a controlled dangerous substance.

Proposed law makes technical changes in present law to update references from telemedicine to telehealth to conform with proposed law.

Effective January 1, 2024.

(Amends R.S. 22:11(C)(1)(a)(i), 1821(F)(1) and (2), 1841(3), 1842(A)(1) and (B), and 1843(A)(2) and (B)(1)(a)(ii) and (b)(i) and (iv), R.S. 28:53(B)(1), 53(B)(4)(intro para), 53(F), (G)(2), 53(G)(7)(a)(intro para) and 53(G)(7)(b)(intro para) and 53(G)(7)(b)(ii), and (J)(1), R.S. 37:1262(4), 1271, 1271.1(A)(intro para), 1271.1(A)(2) and (3), 1285.2(D)(2), R.S. 40:1046(K), 1165.2(B), 1167.2(6), 1167.4(E) and (F), 1223.2(3), 1223.3(3) and (5), 1223.4(A) and (B)(3), 1223.5, 1237.1(A)(9)(a)(ii)(bb), and 2195.1(A)(6), and R.S. 46:978.1(2); adds R.S. 40:1223.4(B)(5)-(7); repeals R.S. 22:1841(6) and R.S. 37:1276.1)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to the original bill

1. Update an internal citation.

Senate Floor Amendments to engrossed bill

1. Clarify that a physician practices medicine remotely through utilization of the modality of telehealth.
2. Make a technical change.