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AN ACT concerning the use of telemedicine and telehealth to respond to coronavirus disease 2019.

Establishes certain requirements to use telemedicine and telehealth to respond to coronavirus disease 2019 (COVID-19).

PRIME Sponsor \_\_\_\_\_ / \_\_\_\_\_

<u>CO-Sponsor</u>	<u>District</u>	<u>CO-Sponsor</u>	<u>District</u>
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Same as \_\_\_\_\_ 18/19      Same as S \_\_\_\_\_ 20/21

Suggested allocation: s.1: T&E

AN ACT concerning the use of telemedicine and telehealth to respond to coronavirus disease 2019.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

1. a. For the duration of the public health emergency declared pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) in response to coronavirus disease 2019 (COVID-19), any health care practitioner shall be authorized to provide and bill for services using telemedicine and telehealth, which may include all services included in the definitions of telemedicine and telehealth set forth in section 1 of P.L.2017, c.117 (C.45:1-61) to the extent appropriate under the standard of care, which services may be provided regardless of whether rules and regulations concerning the practice of telemedicine and telehealth have been adopted pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). A health care practitioner who is not licensed or certified to provide health care services pursuant to Title 45 of the Revised Statutes may provide telemedicine and telehealth services pursuant to this section, provided that:

(1) the health care practitioner is validly licensed or certified to provide health care services in another state or territory of the United States or in the District of Columbia, and is in good standing in the jurisdiction that issued the license or certification;

(2) the health care services provided by the health care practitioner using telemedicine and telehealth are within the practitioner’s authorized scope of practice in the jurisdiction that issued the license or certification;

(3) unless the health care practitioner has a preexisting provider-patient relationship with the patient that is unrelated to COVID-19, the health care services provided are limited to services related to screening for, diagnosing, or treating COVID-19; and

(4) in the event that the health care practitioner determines during a telemedicine or telehealth encounter with a patient located in New Jersey that the encounter will not involve services related to screening for, diagnosing, or treating COVID-19, and the practitioner does not have a preexisting provider-patient relationship with the patient that is unrelated to COVID-19, the practitioner shall advise the patient that the practitioner is not authorized to provide services to the patient, recommend that the patient initiate a new telemedicine or telehealth encounter with a health care practitioner licensed or certified to practice in New Jersey, and terminate the telemedicine or telehealth encounter.

b. The amount charged by a health care practitioner for services provided using telemedicine or telehealth pursuant to this section shall be reasonable and consistent with the ordinary fees typically charged for that service, provided that a health care practitioner who is required to terminate a telemedicine or telehealth encounter

pursuant to paragraph (4) of subsection a. of this section shall not issue a bill for any services provided during the encounter.

c. The Commissioner of Health and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall waive any requirement of State law or regulation as may be necessary to facilitate the provision of health care services using telemedicine and telehealth during the state of public health emergency declared in response to COVID-19, including any privacy requirements established by State law or regulation that would limit the use of electronic or technological means that are not typically used in the provision of telemedicine and telehealth, provided that nothing in this subsection shall be construed to authorize the waiver of any State laws or regulations restricting the collection, exchange, transmission, or use of confidential patient health information.

d. Nothing in this section shall be construed to abrogate any authority granted to the Commissioner of Health during a state of public health emergency pursuant to P.L.2005, c.222 (C.26:13-1 et seq.).

2. This act shall take effect immediately.

#### STATEMENT

This bill provides that, for the duration of the public health emergency declared in response to the coronavirus disease 2019 (COVID-19), any health care practitioner will be authorized to provide and bill for services using telemedicine and telehealth, regardless of whether rules and regulations concerning the practice of telemedicine and telehealth have been adopted pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.). The services authorized under the bill will include the full range of services set forth in the definitions of telemedicine and telehealth in section 1 of P.L.2017, c.117 (C.45:1-61) that are appropriate under the standard of care.

A practitioner who is not licensed or certified to practice in New Jersey may provide health care services under the bill using telemedicine and telehealth, provided that: (1) the practitioner is licensed or certified to practice in another state or territory of the United States or in the District of Columbia, and is in good standing in that jurisdiction; (2) the services provided by that practitioner are consistent with the practitioner’s authorized scope of practice in the jurisdiction that issued the practitioner’s license or certification; (3) unless the practitioner has a preexisting provider-patient relationship with the patient that is unrelated to COVID-19, the services provided are limited to services related to screening for, diagnosing, or treating COVID-19; and (4) in the event that the practitioner determines that a telemedicine or telehealth encounter with a patient located in New Jersey will not involve screening for, diagnosing, or treating COVID-

19, and the practitioner does not have a preexisting provider-patient relationship with the patient that is unrelated to COVID-19, the practitioner advises the patient that the practitioner is not authorized to provide services to the patient, recommends that the patient initiate a new telemedicine or telehealth encounter with a health care practitioner licensed or certified to practice in New Jersey, and terminates the telemedicine or telehealth encounter.

The bill requires that any amount charged for services provided under the bill be reasonable and consistent with the ordinary fees typically charged for that service. In the event that a health care practitioner who is not licensed to practice in New Jersey is required to terminate a telemedicine or telehealth encounter because the encounter does not involve the provision of services related to screening, diagnosing, or treating COVID-19, the practitioner will be prohibited from billing for any services provided during the encounter.

The bill requires the Commissioner of Health and the Director of the Division of Consumer Affairs in the Department of Law and Public Safety to waive any requirement of State law or regulation as may be necessary to facilitate the provision of health care services using telemedicine and telehealth during the COVID-19 public health emergency, including any privacy requirements that would limit the use of electronic or technological means that are not typically used in the provision of telemedicine and telehealth, provided that nothing in the bill will authorize the waiver of any State laws or regulations restricting the collection, exchange, transmission, or use of confidential patient health information..

Nothing in the bill is to be construed to abrogate any authority granted to the Commissioner of Health under the “Emergency Health Powers Act,” P.L.2005, c.222 (C.26:13-1 et seq.).

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Establishes certain requirements to use telemedicine and telehealth to respond to coronavirus disease 2019 (COVID-19).