



AMENDMENT NO. 1

Calendar No. _____

Purpose: To provide temporary licensing reciprocity for telehealth and interstate health care treatment.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. 3799

To prepare for, and respond to, existing viruses, emerging new threats, and pandemics.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MURPHY

Viz:

1 At the end of subtitle A of title II, add the following:

2 **SEC. 203. TEMPORARY AUTHORIZATION OF TELEHEALTH**

3 **AND INTERSTATE TREATMENT.**

4 (a) DEFINITIONS.—In this section:

5 (1) the term “health care professional” means
6 an individual who—

7 (A) has a valid and unrestricted license or
8 certification from, or is otherwise authorized by,
9 a State, the District of Columbia, or a territory
10 or possession of the United States, for any
11 health care profession, including mental health;
12 and

1 (B) is not affirmatively excluded from
2 practice in the licensing or certifying jurisdic-
3 tion or in any other jurisdiction;

4 (2) the term “Secretary” means the Secretary
5 of Health and Human Services; and

6 (3) the term “telehealth services” means use of
7 telecommunications and information technology (in-
8 cluding synchronous or asynchronous audio-visual,
9 audio-only, or store and forward technology) to pro-
10 vide access to physical and mental health assess-
11 ment, diagnosis, treatment, intervention, consulta-
12 tion, supervision, and information across distance.

13 (b) TEMPORARY AUTHORIZATION.—

14 (1) IN GENERAL.—Notwithstanding any other
15 provision of Federal or State law or regulation re-
16 garding the licensure or certification of health care
17 providers or the provision of telehealth services, a
18 health care professional may practice within the
19 scope of the individual’s license, certification, or au-
20 thorization described in subsection (a)(1)(A), either
21 in-person or through telehealth, in any State, the
22 District of Columbia, or any territory or possession
23 of the United States, or any other location des-
24 ignated by the Secretary, based on the licensure,
25 certification, or authorization such individual in any

1 one State, the District of Columbia, or territory or
2 possession of the United States.

3 (2) SCOPE OF TELEHEALTH SERVICES.—Tele-
4 health services authorized by this section include
5 services provided to any patient regardless of wheth-
6 er the health care professional has a prior treatment
7 relationship with the patient, provided that, if the
8 health care professional does not have a prior treat-
9 ment relationship with the patient, a new relation-
10 ship may be established only via a written acknowl-
11 edgment or synchronous technology.

12 (3) INITIATION OF TELEHEALTH SERVICES.—
13 Before providing telehealth services authorized by
14 this section, the health care professional shall—

15 (A) verify the identification of the patient
16 receiving health services;

17 (B) obtain oral or written acknowledgment
18 from the patient (or legal representative of the
19 patient) to perform telehealth services, and if
20 such acknowledgment is oral, make a record of
21 such acknowledgment; and

22 (C) obtain or confirm an alternative meth-
23 od of contacting the patient in case of a techno-
24 logical failure.

1 (4) WRITTEN NOTICE OF PROVISION OF SERV-
2 ICES.—As soon as practicable, but not later than 30
3 days after first providing services pursuant to this
4 section in a jurisdiction other than the jurisdiction
5 in which a health care professional is licensed, cer-
6 tified, or otherwise authorized, such health care pro-
7 fessional shall provide written notice to the applica-
8 ble licensing, certifying, or authorizing authority in
9 the jurisdiction in which the health care professional
10 provided such services. Such notice shall include the
11 health care professional's—

12 (A) name;

13 (B) email address;

14 (C) phone number;

15 (D) State of primary license, certification,
16 or authorization; and

17 (E) license, certification, or authorization
18 type, and applicable number or identifying in-
19 formation with respect to such license, certifi-
20 cation, or authorization.

21 (5) CLARIFICATION.—Nothing in this section
22 authorizes a health care professional to—

23 (A) practice beyond the scope of practice
24 authorized by—

1 (i) any State, District of Columbia,
2 territorial, or local authority in the juris-
3 diction in which the health care profes-
4 sional holds a license, certification, or au-
5 thorization described in subsection
6 (a)(1)(A); or

7 (ii) any State, District of Columbia,
8 territorial, or local authority in the juris-
9 diction in which the patient receiving serv-
10 ices is located;

11 (B) provide any service or subset of serv-
12 ices prohibited by any such authority in the ju-
13 risdiction in which the patient receiving services
14 is located;

15 (C) provide any service or subset of serv-
16 ices in a manner prohibited by any such author-
17 ity the jurisdiction in which the patient receiv-
18 ing services is located; or

19 (D) provide any service or subset of serv-
20 ices in a manner other than the manner pre-
21 scribed by any such authority in the jurisdiction
22 in which the patient receiving services is lo-
23 cated.

24 (6) INVESTIGATIVE AND DISCIPLINARY AU-
25 THORITY.—A health care professional providing

1 services pursuant to the authority under this section
2 shall be subject to investigation and disciplinary ac-
3 tion by the licensing, certifying, or authorizing au-
4 thorities in the jurisdiction in which the patient re-
5 ceiving services is located. The jurisdiction in which
6 the patient receiving services is located shall have
7 the authority to preclude the health care provider
8 from practicing further in its jurisdiction, whether
9 such practice is authorized by the laws of such juris-
10 diction or the authority granted under this section,
11 and shall report any such preclusion to the licensing
12 authority in the jurisdiction in which the health care
13 provider is licensed, certified, or authorized.

14 (7) MULTIPLE JURISDICTION LICENSURE.—
15 Notwithstanding any other provision of this section,
16 a health care professional shall be subject to the re-
17 quirements of the jurisdiction of licensure if the pro-
18 fessional is licensed in the State, the District of Co-
19 lumbia, or territory or possession where the patient
20 is located.

21 (8) INTERSTATE LICENSURE COMPACTS OR
22 TRANSFER PROGRAM.—If a health care professional
23 is licensed in multiple jurisdictions through an inter-
24 state licensure compact or license transfer program,
25 with respect to services provided to a patient located

1 in a jurisdiction covered by such compact or pro-
2 gram, the health care professional shall be subject to
3 the requirements of the compact or program and not
4 this section.

5 (c) APPLICATION.—This section shall apply—

6 (1) during the period beginning on the date of
7 enactment of this Act and ending on the date that
8 is at least 180 days (as determined by the Sec-
9 retary) after the end of the public health emergency
10 declared by the Secretary under section 319 of the
11 Public Health Service Act (42 U.S.C. 247d) on Jan-
12 uary 31, 2020, with respect to COVID–19; and

13 (2) subject to a declaration by the Secretary in-
14 voking such application—

15 (A) during a period in which there is in ef-
16 fect both—

17 (i)(I) a major disaster with respect to
18 not less than 12 States, declared by the
19 President pursuant to section 401 of the
20 Robert T. Stafford Disaster Relief and
21 Emergency Assistance Act (42 U.S.C.
22 5170) or emergency declared by the Presi-
23 dent under section 501 of the Robert T.
24 Stafford Disaster Relief and Emergency
25 Assistance Act (42 U.S.C. 5191); or

1 (II) a national emergency declared by
2 the President under the National Emer-
3 gencies Act (50 U.S.C. 1601 et seq.); and
4 (ii) a public health emergency de-
5 clared by the Secretary of Health and
6 Human Services under section 319 of the
7 Public Health Service Act (42 U.S.C.
8 247d); and
9 (B) for at least 180 days after the disaster
10 or emergency period under subclause (I) or (II)
11 of subparagraph (A)(i) ends, as determined by
12 the Secretary.