_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: “AN ACT REVISING TELEHEALTH AND TELEMEDICINE LAWS; PROVIDING FOR OUT-OF-STATE PROVIDER REGISTRATION; PROVIDING FOR REGISTRATION REQUIREMENTS, INELIGIBILITY CRITERIA, AND NOTIFICATION REQUIREMENTS; PROVIDING FOR DISCIPLINARY AUTHORITY BY THE DEPARTMENT OF LABOR AND INDUSTRY FOR VIOLATIONS; PROVIDING FOR A DESIGNATION OF SERVICE LOCATION AND VENUE; PROVIDING EXEMPTIONS TO THE REGISTRATION REQUIREMENT; PROVIDING FOR ELECTRONIC SUBMISSION OF INFORMATION; PROHIBITING AN IN-PERSON APPEARANCE REQUIREMENT FOR APPLICANTS; PROVIDING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTION 37-3-103, MCA.”

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 9], unless the context clearly indicates otherwise, the following definitions apply:

(1) "Asynchronous" means an exchange of information regarding a patient, including the secure collection and transmission of a patient's medical information, clinical data, clinical images, laboratory results, or self-reported medical history, that does not occur in real time.

(2) "Board" has the meaning provided in 37-1-130.

(3) "Department" means the department of labor and industry provided for in 2-15-1701.

(4) "Health care provider" has the meaning provided in 50-4-106.

(5) "Health care services" has the meaning provided in 50-4-106.

(6) "Remote patient monitoring" means the remote monitoring of a patient's vital signs, biometric data, or other objective or subjective data by a device that transmits the data electronically to a health care provider.

(7) "Synchronous" means an exchange of information regarding a patient that occurs in real time.

(8) "Telehealth" has the meaning provided in 37-2-305.

(9) "Telemedicine" has the meaning provided in 37-3-102.

NEW SECTION. **Section 2. Out-of-state provider registration.** A health care provider not licensed, registered, or certified in this state may provide health care services to a patient located in this state under 37-2-305 if the health care provider registers with the applicable board, oversight entity, or the department, if there is no board, and provides health care services within the applicable scope of practice established by law.

NEW SECTION. **Section 3. State registration requirements -- registration fee.** (1) The board, oversight entity, or the department, if there is no board, shall register a health care provider not licensed in this state as a telehealth or telemedicine provider if the health care provider:

(a) completes an application in the format prescribed by the board, oversight entity, or department;

(b) is currently licensed, registered, or certified with an active, unencumbered license, registration, or certificate that is issued by another state, the District of Columbia, or a possession or territory of the United States and is substantially similar to a license, registration, or certificate accepted in or issued by this state; and

(c) has not been subject to disciplinary action relating to the health care provider's license, registration, or certificate during the 5-year period immediately prior to the submission of the application.

(2) The board, oversight entity, or the department, if there is no board, may use the national practitioner data bank to verify the information submitted under this section, if applicable.

(3) The board, oversight entity, or department, if there is no board, may charge a registration fee that may not exceed the fee charged for that type of health care provider when applying for in-state licensure, registration, or certification.

NEW SECTION. **Section 4. Ineligibility for registration -- notification requirement.** (1) A health care provider may not register under [section 2] if the health care provider's license, registration, or certificate to provide health care services issued by another state, the District of Columbia, or a possession or territory of the United States is subject to a pending disciplinary investigation, action, or proceeding or has been revoked in any state or jurisdiction.

(2) A health care provider registered under [section 2] shall notify the appropriate board, oversight

entity, or the department, if there is no board, of restrictions imposed on the health care provider's license, registration, or certificate to provide health care services and of any disciplinary action initiated, taken, or pending against the provider relating to the provider's license, registration, or certificate to provide health care services in another state, the District of Columbia, or a possession or territory of the United States.

(3) The notification required by this section must be provided within 5 business days after a restriction is imposed on the health care provider's license, registration, or certificate or disciplinary action is initiated.

NEW SECTION. **Section 5. Discipline for noncompliance.** (1) The board, oversight entity, or the department, if there is no board, may take disciplinary action against a health care provider registered under [section 2] if the health care provider:

(a) fails to notify the applicable board, oversight entity, or the department, if there is no board, of any adverse action taken against the health care provider's license, registration, or certificate to provide health care services as required under [section 4];

(b) has restrictions imposed on the health care provider's license, registration, or certificate to provide health care services or is subject to disciplinary action by another state, the District of Columbia, or a possession or territory of the United States;

(c) violates any of the requirements of this section; or

(d) commits an act that constitutes grounds for disciplinary action against a licensed, registered, or certified practitioner who provides comparable health care services in this state.

(2) Disciplinary action taken by a board, oversight entity, or the department, if there is no board, under this section may include suspension or revocation of the health care provider's registration or the issuance of a reprimand or a letter of concern. The suspension of a health care provider's registration may include a corrective action plan as determined by the board, oversight entity, or the department, if there is no board, the completion of which may lead to the health care provider's reinstatement according to rules adopted by the board, oversight entity, or the department, if there is no board.

NEW SECTION. **Section 6. Location of services -- venue.** For the purposes of this section, an act

that constitutes the delivery of health care services is deemed to occur at the place where the patient is located when the act is performed or in the patient's county of residence. Venue for a civil or administrative action initiated by the appropriate board, oversight entity, or department or a patient who receives telehealth or telemedicine services from an out-of-state provider is the location of the patient's county of residence. By registering under [sections 1 through 9], a health care provider consents to and is subject to the personal jurisdiction of this state in any action arising out of the provision of a telehealth service in this state.

NEW SECTION. **Section 7. Exemptions to registration requirement.** A health care provider who is not licensed, registered, or certified to provide health care services in this state but who holds an active license, registration, or certificate to provide health care services in another state or jurisdiction and who provides health care services using telehealth or telemedicine to a patient located in this state is not subject to the registration requirement under [section 2] if the health care services are provided:

(1) in response to an emergency medical condition;

(2) in consultation with a health care provider licensed, registered, or certified in this state who has ultimate authority over the diagnosis and care of the patient;

(3) as aftercare specifically related to a medical procedure that was delivered in person in another state;

(4) to a person who is a resident of another state, and the health care provider is the primary care or behavioral health provider located in the person's state of residence;

(5) to evaluate a patient or render an oral, written, or otherwise documented medical opinion or to provide testimony or records for the purpose of any civil or criminal action before any judicial or administrative proceeding of this state or other forum in this state; or

(6) as fewer than 10 telehealth encounters each calendar year.

NEW SECTION. **Section 8. Electronic submission of information allowed -- in-person appearance requirement for applicants prohibited.** A health care provider may not be required to appear for an in-person photo or signature before being licensed, registered, or certified. Additional information required to be submitted to a board, oversight entity, or department, if there is no board, may be submitted electronically.

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2 NEW SECTION. **Section 9. Rulemaking authority.** The department shall adopt rules to implement
3 [sections 1 through 9].
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5 **Section 10.** Section 37-3-103, MCA, is amended to read:
6 "**37-3-103. Exemptions from licensing requirements.** (1) This chapter does not prohibit or require a
7 license with respect to any of the following acts:
8 (a) the gratuitous rendering of services in cases of emergency or catastrophe;
9 (b) the rendering of services in this state by a physician lawfully practicing medicine in another
10 state or territory. However, if the physician does not limit the services to an occasional case or if the physician
11 has any established or regularly used hospital connections in this state or maintains or is provided with, for the
12 physician's regular use, an office or other place for rendering the services, the physician must possess a
13 license to practice medicine in this state.
14 (c) the practice of dentistry under the conditions and limitations defined by the laws of this state;
15 (d) the practice of podiatry under the conditions and limitations defined by the laws of this state;
16 (e) the practice of optometry under the conditions and limitations defined by the laws of this state;
17 (f) the practice of chiropractic under the conditions and limitations defined by the laws of this state;
18 (g) the practice of Christian Science, with or without compensation, and ritual circumcisions by
19 rabbis;
20 (h) the practice of medicine by a physician licensed in another state and employed by the federal
21 government;
22 (i) the rendering of nursing services by registered or other nurses in the lawful discharge of their
23 duties as nurses or of midwife services by registered nurse-midwives under the conditions and limitations
24 defined by law;
25 (j) the rendering of services by interns or resident physicians in a hospital or clinic in which they
26 are training, subject to the conditions and limitations of this chapter;
27 (k) the rendering of services by a surgical or medical technician or medical assistant, as provided
28 in 37-3-104, under the appropriate amount and type of supervision of a person licensed under the laws of this

state to practice medicine, but this exemption does not extend the scope of the individuals listed in this subsection (1)(k);

(l) the rendering of services by a physician assistant in accordance with Title 37, chapter 20;

(m) the practice by persons licensed under the laws of this state to practice a limited field of the healing arts, including physical therapists and other licensees not specifically designated, under the conditions and limitations defined by law;

(n) the execution of a death sentence pursuant to 46-19-103;

(o) the practice of direct-entry midwifery. For the purpose of this section, the practice of direct-entry midwifery means the advising, attending, or assisting of a woman during pregnancy, labor, natural childbirth, or the postpartum period. Except as authorized in 37-27-302, a direct-entry midwife may not dispense or administer a prescription drug, as those terms are defined in 37-7-101.

(p) the use of an automated external defibrillator pursuant to Title 50, chapter 6, part 5;

(q) the practice of telehealth or telemedicine as defined in [section 1] by an out-of-state health care provider or physician registered under [section 2].

(2) Licensees referred to in subsection (1) who are licensed to practice a limited field of healing arts shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses and, with the exception of those licensees who hold a medical degree, may not use the title "M.D.", "D.O.", or any word or abbreviation to indicate or to induce others to believe that they are engaged in the diagnosis or treatment of persons afflicted with disease, injury, or defect of body or disorder of mind except to the extent and under the conditions expressly provided by the law under which they are licensed."

NEW SECTION. **Section 11. Codification instruction.** [Sections 1 through 9] are intended to be codified as a new part in Title 37, chapter 2, and the provisions of Title 37, chapter 2, apply to [sections 1 through 9].

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