A BILL FOR AN ACT

CONCERNING INCREASED ACCESS TO HEALTH CARE THROUGH THE USE
OF APPROPRIATE COMMUNICATION TECHNOLOGIES, AND, IN
CONNECTION THEREWITH, ENDORSING THE USE OF
TELEMEDICINE AND AUTHORIZING THE NEGOTIATION OF
INTERSTATE AGREEMENTS TO PROMOTE EFFICIENCY IN THE
DELIVERY OF MEDICAL AND NURSING SERVICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does
not necessarily reflect any amendments that may be subsequently
adopted.)

Endorses the use of telemedicine and provides that medical
services and other health care services rendered via telemedicine are
reimbursable under the "Colorado Medical Assistance Act", and under health care coverage or health insurance policies, to the same extent as such services would be if rendered in person. States that a patient always has the option of choosing an in-person consultation or treatment. Authorizes the executive director of the department of health care policy and financing to adopt rules regarding telemedicine consultations.

Removes the transfer of medical data and education related to health care services from the existing definition of "telemedicine" in the medical practice act.

Authorizes the executive director of the department of regulatory agencies, together with the medical and nursing licensing boards and in consultation with others, to negotiate an interstate compact to promote increased efficiency in the delivery of medical and nursing services.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-36-106 (1) (g), Colorado Revised Statutes, is amended to read:

12-36-106. Practice of medicine defined - exemptions from licensing requirements - repeal. (1) For the purpose of this article, "practice of medicine" means:

(g) The delivery of telemedicine, which means the delivery of medical services and any diagnosis, consultation, or treatment transfer of medical data, or education related to health care services using interactive audio, interactive video, or interactive data communication. Nothing in this paragraph (g) shall be construed to AUTHORIZE PHYSICIANS TO DELIVER SERVICES OUTSIDE THEIR SCOPE OF PRACTICE NOR to limit the delivery of health services by other licensed professionals, within the professional's scope of practice, using advanced technology, including, but not limited to, interactive audio, interactive video, or interactive data communication.

SECTION 2. 26-4-405, Colorado Revised Statutes, is amended to read:
26-4-405. Providers - hospital reimbursement - rules. (1) On or after July 1, 1987; The state department shall pay all licensed or certified hospitals under this article, except those hospitals operated by the department of human services, pursuant to a system of prospective payment, generally based on the elements of the medicare system of diagnosis-related groups. While developing the system of prospective payment, the state department shall constitute an advisory committee, whose members shall include hospital providers and be appointed by the executive director. The system of prospective payment shall consider utilizing the system of children's diagnosis-related groups, as developed by the national association of children's hospitals, for pediatric hospitalization, unless the medical services board finds that such groups are statistically invalid. If the state department determines that the medicare system of diagnosis-related groups has been expanded or revised sufficiently to reasonably apply to additional categories of providers under this article or if the state department develops a diagnosis-related groups system for additional categories of providers, which system includes hospitals operated by the department of human services, then the state department shall begin payment to such categories of providers under this article pursuant to the system of prospective payment developed under this section. The state department shall develop and administer a system for assuring appropriate utilization and quality of care provided by those providers who are reimbursed pursuant to the system of prospective payment developed under this section. The executive director of the state department shall promulgate rules and regulations to provide for the implementation of this section.

(2) (a) A hospital that receives payment under this article
FOR TELEMEDICINE SERVICES SHALL ESTABLISH QUALITY-OF-CARE
PROTOCOLS AND PATIENT CONFIDENTIALITY GUIDELINES TO ENSURE THAT
SUCH SERVICES MEET THE REQUIREMENTS OF THIS ARTICLE AND
ACCEPTABLE PATIENT CARE STANDARDS.

(b) The Executive Director of the State Department Shall
Adopt Rules in Furtherance of this Subsection (2), Including,
Without Limitation, Rules To:

(I) Ensure the Provision of Appropriate Care to Patients;

(II) Prevent Fraud and Abuse; and

(III) Establish Methods and Procedures to Avoid Overuse
Of Telemedicine Services.

SECTION 3. 26-4-421 (3). Colorado Revised Statutes, is
Amended, and the said 26-4-421 is further amended BY THE ADDITION
Of A NEW SUBSECTION, to read:

26-4-421. Telemedicine - legislative intent. (3) On or after
January 1, 2002, face-to-face contact between a health care provider and
a patient in a county with one hundred fifty thousand residents or less
may SHALL not be required under the managed care system created in part
1 of this article for services appropriately provided through telemedicine,
subject to reimbursement policies developed by the department of health
care policy and financing to compensate providers who provide health
care services covered by the program created in section 26-4-104.
Telemedicine services may only be used in areas of the state where the
technology necessary for the provision of telemedicine exists. The audio
and visual telemedicine system used shall, at a minimum, have the
capability to meet the procedural definition of the most recent edition of
the current procedural terminology that represents the service provided
through telemedicine. The telecommunications equipment shall be of a level of quality to adequately complete all necessary components to document the level of service for the current procedural terminology fourth edition codes that are billed. If a peripheral diagnostic scope is required to assess the patient, it shall provide adequate resolution or audio quality for decision making.

(7) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO:

(a) ALTER THE SCOPE OF PRACTICE OF ANY HEALTH CARE PROVIDER;

(b) AUTHORIZE THE DELIVERY OF HEALTH CARE SERVICES IN A SETTING OR MANNER NOT OTHERWISE AUTHORIZED BY LAW; OR

(c) LIMIT A PATIENT'S RIGHT TO CHOOSE IN-PERSON CONTACT WITH A HEALTH CARE PROVIDER FOR THE DELIVERY OF HEALTH CARE SERVICES FOR WHICH TELEMEDICINE IS AVAILABLE.

SECTION 4. Part 4 of article 4 of title 26, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

26-4-421.5. Telemedicine - reimbursement - disclosure statement. (1) ON OR AFTER JULY 1, 2005, IN-PERSON CONTACT BETWEEN A HEALTH CARE PROVIDER AND A PATIENT SHALL NOT BE REQUIRED UNDER THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED IN THIS ARTICLE AND THE FEDERAL "SOCIAL SECURITY ACT", AS AMENDED, FOR HEALTH CARE SERVICES DELIVERED THROUGH TELEMEDICINE THAT ARE OTHERWISE ELIGIBLE FOR REIMBURSEMENT UNDER SUCH PROGRAM AND FEDERAL ACT. SUCH SERVICES SHALL BE SUBJECT TO REIMBURSEMENT POLICIES DEVELOPED PURSUANT TO SUCH PROGRAM AND
FEDERAL ACT. THIS SECTION ALSO APPLIES TO MANAGED CARE PLANS THAT CONTRACT WITH THE STATE DEPARTMENT PURSUANT TO THE STATEWIDE MANAGED CARE SYSTEM ONLY TO THE EXTENT THAT:

(a) HEALTH CARE SERVICES DELIVERED THROUGH TELEMEDICINE ARE COVERED BY AND REIMBursed UNDER THE MEDICAID FEE-FOR-SERVICE PROGRAM; AND

(b) MANAGED CARE CONTRACTS WITH MANAGED CARE PLANS ARE AMENDED TO ADD COVERAGE OF HEALTH CARE SERVICES DELIVERED THROUGH TELEMEDICINE AND ANY APPROPRIATE CAPITATION RATE ADJUSTMENTS ARE INCORPORATED.

(2) THE REIMBURSEMENT RATE FOR A TELEMEDICINE SERVICE SHALL, AS A MINIMUM, BE SET AT THE SAME RATE AS THE MEDICAL ASSISTANCE PROGRAM RATE FOR A COMPARABLE IN-PERSON SERVICE.

(3) THE STATE DEPARTMENT SHALL ESTABLISH RATES FOR TRANSMISSION COST REIMBURSEMENT FOR TELEMEDICINE SERVICES, CONSIDERING, TO THE EXTENT APPLICABLE, REDUCTIONS IN TRAVEL COSTS BY HEALTH CARE PROVIDERS AND PATIENTS TO DELIVER OR TO ACCESS HEALTH CARE SERVICES AND SUCH OTHER FACTORS AS THE STATE DEPARTMENT DEEMS RELEVANT.

(4) A HEALTH CARE PROVIDER WHO DELIVERS HEALTH CARE SERVICES THROUGH TELEMEDICINE SHALL PROVIDE TO EACH PATIENT, BEFORE TREATING THAT PATIENT THROUGH TELEMEDICINE FOR THE FIRST TIME, THE FOLLOWING WRITTEN STATEMENTS:

(a) THAT THE PATIENT RETAINS THE OPTION TO REFUSE THE DELIVERY OF HEALTH CARE SERVICES VIA TELEMEDICINE AT ANY TIME WITHOUT AFFECTING THE PATIENT'S RIGHT TO FUTURE CARE OR TREATMENT AND WITHOUT RISKING THE LOSS OR WITHDRAWAL OF ANY
PROGRAM BENEFITS TO WHICH THE PATIENT WOULD OTHERWISE BE
ENTITLED;

(b) THAT ALL APPLICABLE CONFIDENTIALITY PROTECTIONS SHALL
APPLY TO THE SERVICES; AND

(c) THAT THE PATIENT SHALL HAVE ACCESS TO ALL MEDICAL
INFORMATION RESULTING FROM THE TELEMEDICINE SERVICES AS PROVIDED
BY APPLICABLE LAW FOR PATIENT ACCESS TO HIS OR HER MEDICAL
RECORDS.

(5) THE PATIENT SHALL SIGN A WRITTEN STATEMENT PRIOR TO
THE INITIAL DELIVERY OF HEALTH CARE SERVICES VIA TELEMEDICINE,
INDICATING THAT THE PATIENT UNDERSTANDS THE WRITTEN INFORMATION
PROVIDED UNDER SUBSECTION (4) OF THIS SECTION AND THAT THIS
INFORMATION HAS BEEN DISCUSSED WITH THE HEALTH CARE PROVIDER OR
HIS OR HER DESIGNEE. SUCH SIGNED STATEMENT SHALL BECOME A PART
OF THE PATIENT’S MEDICAL RECORD.

(6) IF THE PATIENT IS A MINOR OR IS INCAPACITATED OR MENTALLY
INCOMPETENT SUCH THAT HE OR SHE IS UNABLE TO SIGN THE WRITTEN
STATEMENT REQUIRED BY SUBSECTION (5) OF THIS SECTION, SUCH
STATEMENT SHALL BE SIGNED BY THE PATIENT’S LEGALLY AUTHORIZED
REPRESENTATIVE.

(7) SUBSECTIONS (4) AND (5) OF THIS SECTION SHALL NOT APPLY
IN AN EMERGENCY SITUATION IN WHICH:

(a) THE PATIENT IS UNABLE TO SIGN THE WRITTEN STATEMENT
REQUIRED BY SUBSECTION (5) OF THIS SECTION; AND

(b) THE PATIENT’S LEGALLY AUTHORIZED REPRESENTATIVE IS
UNAVAILABLE.
SECTION 5. Article 60 of title 24, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PART to read:

PART 31

COMPACT FOR PORTABILITY OF HEALTH CARE PROFESSIONAL LICENSES -

AUTHORIZATION

24-60-3101. Legislative declaration. The general assembly hereby finds that a lack of access to quality, affordable health care services is an increasing problem, both in Colorado and nationwide, and contributes to the spiraling costs of health care for individuals and businesses. Therefore, it is desirable to authorize the executive director of the department of regulatory agencies, together with the state board of medical examiners created in section 12-36-103, C.R.S., and the state board of nursing created in section 12-38-104, C.R.S., and in consultation with representatives of other relevant state agencies, to negotiate one or more interstate compacts endorsing model legislation to facilitate the efficient distribution of health care services across state lines.

24-60-3102. Definitions. As used in this part 31, unless the context otherwise requires:

(1) "Department" means the department of regulatory agencies, created in section 24-1-122.

(2) "Executive director" means the executive director of
THE DEPARTMENT.

(3) "Medicine" or "medical practice" has the same meaning as "practice of medicine" as defined in section 12-36-106, C.R.S.

(4) "Nursing" or "nursing practice" includes both the practice of practical nursing and the practice of professional nursing as set forth in sections 12-38-103 (9) and 12-38-103 (10), C.R.S., respectively; except that nothing in this part 31 shall be construed to authorize nurses to deliver services outside their scope of practice.

(5) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of or administered by the United States.

24-60-3103. Model legislation - compacts authorized. (1) The executive director, together with the state board of medical examiners created in section 12-36-103, C.R.S., and the state board of nursing created in section 12-38-104, C.R.S., and in consultation with the executive director of the department of health care policy and financing or his or her designee, the executive director of the department of public health and environment or his or her designee, and representatives of other state agencies whose participation the executive director deems beneficial, is hereby authorized to develop, participate in the development of, negotiate for, and enter into one or more interstate compacts on behalf of the state of Colorado with other states to recommend model legislation that, if adopted in
THE RESPECTIVE SIGNATORY STATES, WOULD ADVANCE THE FOLLOWING POLICY GOALS:

(a) **The portability of medical and nursing licenses issued by signatory states, subject to appropriate professional standards, safeguards and reciprocal enforcement provisions;**

AND

(b) **The implementation of procedures for the delivery of health care services via telemedicine.**

(2) **The executive director shall keep the general assembly informed as to the progress of negotiations undertaken pursuant to this section, as events may warrant.**

**SECTION 6. Effective date.** This act shall take effect July 1, 2005.

**SECTION 7. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.