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

IN THE SENATE OF THE UNITED STATES

AUGUST 4, 2020

Mr. MURPHY (for himself and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Temporary Reciprocity to Ensure Access to Treatment Act” or the “TREAT Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) It is necessary to regulate, on a temporary and emergency basis, the provision of interstate
commerce as it pertains to treatment by medical
professionals licensed in one State to patients in
other States.

(2) COVID–19, the disease caused by SARS–
CoV–2, has created a national public health emerg-
ency, as declared by the Secretary of Health and
Human Services under section 319 of the Public
Health Service Act (42 U.S.C. 247d) on January
31, 2020, and by the President under the National

(3) The COVID–19 pandemic has resulted in
closing many businesses and nonprofit organizations,
including colleges and universities, and large areas
of the country remain under full or partial stay-at-
home orders, precluding the ability to seek routine
or elective medical treatment and consultation. The
closing of campus-based in-person learning at insti-
tutions of higher education has also meant that up
to 1,000,000 students have returned to live with
their families across State lines from where they
may have been receiving medical care in the univer-
sity setting. Furthermore, in many rural areas, in-
person medical treatment is inaccessible. Even in
urban areas, the pandemic has severely disrupted ac-
cess to medical care, requiring medical professionals
licensed in one State to provide treatment to pa-
tients residing nearby but across a State line and
unable to visit the medical professional’s office in
the State of licensure.

(4) It is vital that hospitals, temporary surge or
field facilities, skilled nursing facilities, and nursing
homes in areas with high caseloads of COVID–19
patients be able to have access to qualified medical
professionals, including such professionals licensed
in other States, without the delays that would be re-
quired for individualized licensing during a time
when State agencies’ capacity to review and process
licensing requests are limited by the pandemic.

(5) The provision of services by medical profes-
sionals, including services provided at no cost and
services provided to patients in a State other than
the State or States in which the medical professional
maintains an office for professional services, affects
interstate commerce. When used to provide services
to patients located in a State other than the State
in which the medical professional is located, tele-
health services, as defined in section 3, utilize facili-
ties of interstate commerce.

(6) The inability of patients to visit in-State
health care providers during the current crisis sub-
stantially affects interstate commerce. Economic ac-

tivity has been limited by public health authorities
and other government officials to “flatten the curve”
of infections and hospitalizations and thereby pre-
vent the health care system from becoming over-
whelmed. Maximizing the efficient and effective use
of health care resources is therefore vital to reopen-
ing the economy.

(7) Barriers to the efficient delivery of health
care services will lead to a shortage of those services
that substantially affect health care availability
across State lines. Shortages in health care services
in one State prompt interstate travel to obtain
health care in other States, even though discour-
aging such travel, particularly among the sick, is
vital to containing the contagion and reopening the
national economy.

SEC. 3. DEFINITIONS.

In this Act:

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

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

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

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

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

SEC. 4. TEMPORARY AUTHORIZATION OF TELEHEALTH
AND INTERSTATE TREATMENT.

(a) In General.—Notwithstanding any other provi-
sion of Federal or State law or regulation regarding the
licensure or certification of health care providers or the
provision of telehealth services, a health care professional
may practice within the scope of the individual’s license,
certification, or authorization described in section 3(1)(A),
either in-person or through telehealth, in any State, the
District of Columbia, or any territory or possession of the
United States, or any other location designated by the
Secretary, based on the licensure, certification, or authorization such individual in any one State, the District of Columbia, or territory or possession of the United States.

(b) Scope of Telehealth Services.—Telehealth services authorized by this section include services provided to any patient regardless of whether the health care professional has a prior treatment relationship with the patient, provided that, if the health care professional does not have a prior treatment relationship with the patient, a new relationship may be established only via a written acknowledgment or synchronous technology.

(c) Initiation of Telehealth Services.—Before providing telehealth services authorized by this section, the health care professional shall—

(1) verify the identification of the patient receiving health services;

(2) obtain oral or written acknowledgment from the patient (or legal representative of the patient) to perform telehealth services, and if such acknowledgment is oral, make a record of such acknowledgment; and

(3) obtain or confirm an alternative method of contacting the patient in case of a technological failure.
(d) Written Notice of Provision of Services.—As soon as practicable, but not later than 30 days after first providing services pursuant to this section in a jurisdiction other than the jurisdiction in which a health care professional is licensed, certified, or otherwise authorized, such health care professional shall provide written notice to the applicable licensing, certifying, or authorizing authority in the jurisdiction in which the health care professional provided such services. Such notice shall include the health care professional’s—

(1) name;

(2) email address;

(3) phone number;

(4) State of primary license, certification, or authorization; and

(5) license, certification, or authorization type, and applicable number or identifying information with respect to such license, certification, or authorization.

(e) Clarification.—Nothing in this section authorizes a health care professional to—

(1) practice beyond the scope of practice authorized by any State, District of Columbia, territorial, or local authority in the jurisdiction in which
the health care professional holds a license, certification, or authorization described in section 3(1)(A);

(2) provide any service or subset of services prohibited by any such authority in the jurisdiction in which the patient receiving services is located;

(3) provide any service or subset of services in a manner prohibited by any such authority in the jurisdiction in which the patient receiving services is located; or

(4) provide any service or subset of services in a manner other than the manner prescribed by any such authority in the jurisdiction in which the patient receiving services is located.

(f) INVESTIGATIVE AND DISCIPLINARY AUTHORITY.—A health care professional providing services pursuant to the authority under this section shall be subject to investigation and disciplinary action by the licensing, certifying, or authorizing authorities in the jurisdiction in which the patient receiving services is located. The jurisdiction in which the patient receiving services is located shall have the authority to preclude the health care provider from practicing further in its jurisdiction, whether such practice is authorized by the laws of such jurisdiction or the authority granted under this section, and shall report any such preclusion to the licensing authority in the
jurisdiction in which the health care provider is licensed, certified, or authorized.

(g) **Multiple Jurisdiction Licensure.**—Notwithstanding any other provision of this section, a health care professional shall be subject to the requirements of the jurisdiction of licensure if the professional is licensed in the State, the District of Columbia, or territory or possession where the patient is located.

(h) **Interstate Licensure Compacts.**—If a health care professional is licensed in multiple jurisdictions through an interstate licensure compact, with respect to services provided to a patient located in a jurisdiction covered by such compact, the health care professional shall be subject to the requirements of the compact and not this section.

**SEC. 5. APPLICATION.**

This Act shall apply—

(1) during the period beginning on the date of enactment of this Act and ending on the date that is at least 180 days (as determined by the Secretary) after the end of the public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d) on January 31, 2020, with respect to COVID–19; and
(2) subject to a declaration by the Secretary of Health and Human Services invoking such application—

(A) during a period in which there is in effect both—

(i)(I) a major disaster with respect to not less than 12 States, declared by the President pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) or emergency declared by the President under section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5191); or

(II) a national emergency declared by the President under the National Emergencies Act (50 U.S.C. 1601 et seq.); and

(ii) a public health emergency declared by the Secretary of Health and Human Services under section 319 of the Public Health Service Act (42 U.S.C. 247d); and

(B) for at least 180 days after the disaster or emergency period under subclause (I) or (II)
of subparagraph (a)(I) ends, as determined by the Secretary of Health and Human Services.