

117TH CONGRESS
1ST SESSION

S. 340

To amend title XVIII of the Social Security Act to increase the use of telehealth for substance use disorder treatment and mental health services, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 22, 2021

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

A BILL

To amend title XVIII of the Social Security Act to increase the use of telehealth for substance use disorder treatment and mental health services, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Telehealth Response
5 for E-prescribing Addiction Therapy Services Act” or
6 “TREATS Act”.

1 **SEC. 2. TELEHEALTH FOR SUBSTANCE USE DISORDER**
2 **TREATMENT AND MENTAL HEALTH SERV-**
3 **ICES.**

4 (a) SUBSTANCE USE DISORDER SERVICES AND MEN-
5 TAL HEALTH SERVICES FURNISHED THROUGH TELE-
6 HEALTH UNDER MEDICARE.—

7 (1) IN GENERAL.—Section 1834(m)(7)(A) of
8 the Social Security Act (42 U.S.C. 1395m(m)(7)(A))
9 is amended by adding at the end the following:
10 “With respect to telehealth services described in the
11 preceding sentence that are furnished to an eligible
12 telehealth individual with a substance use disorder
13 diagnosis for purposes of treatment of such disorder
14 or co-occurring mental health disorder on or after
15 the date of the enactment of the Telehealth Re-
16 sponse for E-prescribing Addiction Therapy Services
17 Act, or, subject to subparagraph (B), that are fur-
18 nished to an eligible telehealth individual for pur-
19 poses of diagnosis, evaluation, or treatment of a
20 mental health disorder, on or after the first day
21 after the end of the emergency period described in
22 section 1135(g)(1)(B), nothing shall preclude the
23 furnishing of such services through audio or tele-
24 phone only technologies in the case where a physi-
25 cian or practitioner has already conducted an in-per-
26 son medical evaluation or a telehealth evaluation

1 that utilizes both audio and visual capabilities with
2 the eligible telehealth individual.”.

3 (2) IMPLEMENTATION.—The Secretary of
4 Health and Human Services may implement this
5 subsection by program instruction or otherwise.

6 (b) CONTROLLED SUBSTANCES DISPENSED BY
7 MEANS OF THE INTERNET.—Section 309(e)(2) of the
8 Controlled Substances Act (21 U.S.C. 829(e)(2)) is
9 amended—

10 (1) in subparagraph (A)(i)—

11 (A) by striking “at least 1 in-person med-
12 ical evaluation” and inserting the following: “at
13 least—

14 “(I) 1 in-person medical evalua-
15 tion”; and

16 (B) by adding at the end the following:

17 “(II) for purposes of prescribing
18 a controlled substance in schedule III
19 or IV, 1 telehealth evaluation; or”;
20 and

21 (2) by adding at the end the following:

22 “(D)(i) The term ‘telehealth evaluation’
23 means a medical evaluation that is conducted in
24 accordance with applicable Federal and State
25 laws by a practitioner (other than a phar-

1 macist) who is at a location remote from the
2 patient and is communicating with the patient
3 using a telecommunications system referred to
4 in section 1834(m) of the Social Security Act
5 (42 U.S.C. 1395m(m)) that includes, at a min-
6 imum, audio and video equipment permitting
7 two-way, real-time interactive communication
8 between the patient and distant site practi-
9 tioner.

10 “(ii) Nothing in clause (i) shall be con-
11 strued to imply that 1 telehealth evaluation
12 demonstrates that a prescription has been
13 issued for a legitimate medical purpose within
14 the usual course of professional practice.

15 “(iii) A practitioner who prescribes the
16 drugs or combination of drugs that are covered
17 under section 303(g)(2)(C) using the authority
18 under subparagraph (A)(i)(II) of this para-
19 graph shall adhere to nationally recognized evi-
20 dence-based guidelines for the treatment of pa-
21 tients with opioid use disorders and a diversion
22 control plan, as those terms are defined in sec-
23 tion 8.2 of title 42, Code of Federal Regula-

1 tions, as in effect on the date of enactment of
2 this subparagraph.”.

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