

David Unwin
Revisor of Statutes
401 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603-5925
David.Unwin@ncleg.gov

Dear Mr. Unwin,

Thank you for contacting the North Carolina Board of Nursing (NCBON) and providing the opportunity for the NCBON to offer comments for consideration by the General Statutes Commission as it reviews the model language for the Uniform Telehealth Act (UTA). This letter provides some general comments based on a review of the document and model language, followed by a table with questions and comments on specific sections of the document you shared with the NCBON.

General comments from the NCBON review of the Uniform Telehealth Act (UTA):

The summary document for the UTA states that the act's model language provides "the necessary guidance and framework to facilitate the delivery of telehealth services consistent with the applicable standards of care and opening state borders for practitioners to assist patients in a more convenient and cost-effective manner." The document also states the UTA is "a powerful tool for healthcare equity, facilitating widespread access to timely and effective healthcare," that telehealth facilitates healthcare equity by enabling patients to "seek care from a qualified practitioner no matter the location." The NCBON believes the model language to be a good start in facilitating telehealth services for NC patients by both in-state and out-of-state healthcare providers; however, existing laws in NC requiring supervision of advanced practice registered nurses (APRNs) create barriers to equitable access to all qualified healthcare providers available to provide telehealth services through the UTA (if implemented in NC). The NCBON is aware that existing NC laws for APRNs continue to be a topic of discussion among legislators; the outcome of such discussions will impact the efficiency with which NC can fully utilize the UTA to facilitate access to additional providers who can provide convenient, cost-effective care to NC patients.



The table below notes specific language from the UTA document and related NCBON comments/questions for consideration by the General Statutes Commission as it discusses the UTA.

Page Number	Line Quote	NCBON Comments / Questions
1	The goal of increasing access is also reflected in the act's application to a <u>broad range of health care practitioners</u> and in its broad definition of telehealth, which allows practitioners and patients to use the most accessible technology that supports the provision of health care that meets the standard of care applicable to in-person services.	Which specific providers in NC will be included in the Uniform Telehealth Act (UTA)?
1	To achieve its first objective, the act authorizes the delivery of care to patients via telehealth, making clear that the same standards that apply to the provision of in-person care in the enacting state also apply to the provision of telehealth services to a patient located in the enacting state. For example: 1. A <u>practitioner</u> may establish a relationship with a patient via telehealth, just as a practitioner may establish a relationship with a patient in person. 2. A standard of care requiring follow-up treatment applies regardless of whether the initial care is provided in person or via telehealth. 3. A professional practice standard that requires a <u>physician</u> to maintain records documenting care applies regardless of whether the care is provided in person or via telehealth. 4. A <u>physician</u> required to obtain informed consent for in-person care must also obtain informed consent for comparable telehealth services.	Recommend language that says, "healthcare provider," and that this term be consistently used throughout proposed bill language. This will limit unintentional omission of healthcare providers that would occur if the term, "physician," is the provider descriptor chosen for the bill language.
4	(5) "Practitioner" means an individual: (A) licensed or certified under [: cite to applicable state statutes (i)... (ii) ...]; or (B) otherwise authorized by law of this state, including through the registration process established under Section 7, to provide health care in this state. (6) "Professional practice standard" includes: (A)a standard	(5) "practitioner" will this indicate specific practice act statutes, or will it be broad and apply to providers under Chapter 90? (6) professional practice standard (c) "a practice requirement imposed by the board." Does this include (for example, CE requirements, etc., practicing within legally defined scope of practice)?

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	of care; (B) a standard of professional ethics; and (C) a practice requirement imposed by a board.	Is there a way to reference practice acts (“practice standards outlined in applicable practice acts”)?
6	(a) A practitioner may provide telehealth services to a patient located in this state if the services are consistent with the practitioner’s scope of practice in this state.	Requirements and limitations related to this section include current NC laws that require nurse practitioners to enter a collaborative / supervisory arrangement. These current laws will create an obstacle for full implementation of telehealth across state lines into NC and is not aligned with the APRN Consensus Model /standards for APRN practice and regulation. The example in the comments section on page 7 further notes the kind of restrictions that would be placed on any out-of-state nurse practitioners who would like to provide telehealth services to NC patients.
10	(1) holds a license or certification required to provide the health care in this state or is otherwise authorized to provide the health care in this state, <u>including through a multistate compact of which this state is a member;</u>	North Carolina is a member of the Nurse Licensure Compact . The UTA includes provisions to recognize authorization through the compacts.
10	(3) provides the telehealth services: (A) in consultation with a practitioner who has a practitioner-patient relationship with the patient; (B) in the form of a specialty assessment, diagnosis, or recommendation for treatment; or (C) pursuant to a previously established practitioner-patient relationship[if the telehealth services are provided not later than [one year] after the practitioner with whom the patient has a relationship last provided health care to the patient].	Does this option mean that there will be individuals in NC who do not hold a license or are not authorized under a compact AND do not need to register with the appropriate regulatory board? It appears that these may be three situations in which practitioners can provide services in NC without any regulatory oversight.
10	(b) A requirement for licensure or certification of an out-of-state practitioner who supervises an out-of-state practitioner providing telehealth services may be satisfied through registration under Section 7.	Again, this could raise concerns that this policy is not aligned with the nationally recognized model for APRN practice and regulation.

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		<p>Advanced practice registered nurses (APRNs) would need to register because there is no APRN compact.</p> <p>North Carolina requires MD supervision of APRNs. Given NC does not have a medical compact in place, telehealth practices would need to assure physicians are licensed in all applicable states to provide services through the UTA. It seems that this could be as difficult as getting a license.</p>
12	(a) A board established under [cite to relevant state statutes] shall register, for the purpose of providing telehealth services in this state, an out-of-state practitioner not licensed, certified, or otherwise authorized to provide health care in this state if the practitioner:	This section is not applicable to individuals who do not need to register under 6(a)(3)
13	before submitting the application, other than discipline relating to a fee payment or continuing education requirement addressed <u>to the satisfaction of the board</u> that took the disciplinary action;	<p>What is the process for boards to determine whether the discipline was addressed to the “satisfaction of the board”?</p> <p>Should this be reworded to “satisfied the board’s requirements” instead of “to the satisfaction of the board?” Ex: completed all actions necessary according to obligations noted by the board in a discipline letter.</p>
13	(5) never has been disciplined on a ground that the registering board determines would be a basis for denying a license or certification in this state.	Boards would need to establish a process for evaluating disciplinary actions of other states to determine if the discipline would be basis for denying a license in NC, and therefore, denial of registration as a NC telehealth provider.
13	(8) has professional liability insurance that includes coverage for telehealth services provided to patients located in this state in an amount not less than the amount required for a practitioner providing the same services in this state; and	Professional liability insurance provided by an employer? In NC, liability insurance (personal) not required by law.
13	(d) A registering board may establish a registration fee that reflects the expected cost of registration under this section and the cost of undertaking investigation,	Guidelines for determining and justifying the fees associated with a telehealth disciplinary case?

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	disciplinary action, and other activity relating to registered practitioners.	
14	For example, if this state issues a license that permits a practitioner to deliver a broad range of services within this state, a license from another state that permits the practitioner to deliver only a subset of these services might be deemed to not be “substantially equivalent” to this state’s license. If the out-of-state practitioner’s license is not substantially equivalent to a license within this state, the board must deny the registration.	Would collaborative/supervisory restrictions in one state equate to a determination that the range of services is not “substantially equivalent” to a full practice authority state? If so, NC APRNs under the current restrictions may not benefit from this law in states that have full practice authority.
15	Section 8. Disciplinary Action by Registering Board (a) A registering board may take disciplinary action against a registered practitioner who: (1) violates this [act]; (2) <u>holds a license or certification that has been restricted in a state</u> ; or (3) has been disciplined by a board, other than discipline relating to a fee payment or continuing education requirement addressed to the satisfaction of the board that imposed the discipline. (b) A registering board may take an action under subsection (a) that it is authorized to take against a licensed or certified practitioner who provides comparable health care in this state. (c) Disciplinary action under this section includes suspension or revocation of the registered practitioner’s registration in accordance with other law of this state applicable to disciplinary action against a practitioner who provides comparable health care in this state.	<p>Can disciplinary action be taken based on violation against the registration in another state? Ex: if a state takes action on the registration in another state, what authority would NC have to take action on that person in this state?</p> <p>If a NC licensee is disciplined in another state, could NC act on their license? It does not appear that this would be allowed. Need specificity re: a licensee registered in another state who gets disciplined in another state and the authority to act in NC based on the discipline in another state – reporting to the public.</p> <p>Appears to be a gap between taking action on registration and license and then reporting the information to the public.</p>
16	(1) shall notify the registering board not later than [ten] days after a board in another state notifies the practitioner that it has initiated an investigation, placed a restriction on the practitioner’s license or certification, or taken a disciplinary action against the practitioner;	Unlike the Nurse Licensure Compact, there is no process by which licensure boards can communicate this information between themselves.

Again, thank you for reaching out to the NCBON to provide comments for consideration by the General Statutes Commission during its review of the UTA. Please let us know if there is any further information that you require from the NCBON.

Respectfully,

A handwritten signature in black ink that reads "Crystal L. Tillman". The signature is fluid and cursive, with the first name "Crystal" and last name "Tillman" clearly legible.

Crystal Tillman, DNP, RN, CPNP, PMHNP-BC, FRE
Chief Executive Officer
North Carolina Board of Nursing