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**AB-1369 Out-of-state physicians and surgeons: telehealth: license exemption.** (2023-2024)

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**Assembly Bill No. 1369**

**CHAPTER 837**

An act to add Section 2052.5 to the Business and Professions Code, relating to healing arts.

[ Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1369, Bauer-Kahan. Out-of-state physicians and surgeons: telehealth: license exemption.

Existing law, the Medical Practice Act, establishes the Medical Board of California within the Department of Consumer Affairs and sets forth its powers and duties relating to the licensure and regulation of the practice of medicine by physicians and surgeons. Existing law generally prohibits the practice of medicine without a physician's and surgeon's certificate issued by the board.

Existing law authorizes a health care provider to deliver health care via telehealth to a patient pursuant to specified protocols and conditions. Existing law defines "telehealth" as the delivery of health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care, and that telehealth includes synchronous interactions and asynchronous store and forward transfers.

Under this bill, the David Hall Act, a person licensed as a physician and surgeon in another state, as specified, would be authorized to deliver health care via telehealth to an eligible patient who, among other requirements, has an immediately life-threatening disease or condition, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** This act shall be known, and may be cited, as the David Hall Act.

**SEC. 2.** Section 2052.5 is added to the Business and Professions Code, to read:

**2052.5.** (a) For purposes of this section, the following definitions apply:

(1) "Eligible patient" means a person who meets all of the following requirements:

(A) Has an immediately life-threatening disease or condition as defined in Section 111548.1 of the Health and Safety Code.

(B) Has given written informed consent for, or, if the person lacks the capacity to consent, their legally authorized representative has given written informed consent on their behalf for, both of the following:

(i) The use of an eligible out-of-state physician and surgeon's telehealth health care services.

(ii) The release of certified medical records to their primary physician and surgeon by the out-of-state physician.

(C) Has not been accepted to participate in the clinical trial nearest to their home for the immediately life-threatening disease or condition identified in subparagraph (A) within one week of completion of the clinical trial application process, or, in the medical judgment of a physician and surgeon described in paragraph (3), it is unreasonable for the patient to participate in that clinical trial due to the patient's current condition and stage of disease.

(D) Has documentation from their primary physician and surgeon attesting that they meet the requirements in subparagraphs (A), (B), and (C). The primary physician and surgeon may withdraw the documentation if there is a substantial change in the patient's mental capacity to make informed decisions for their own care unless their legally authorized representative has given written informed consent on their behalf.

(2) "Eligible out-of-state physician and surgeon" means a person who is licensed as a physician and surgeon in another state in good standing with no history of prior discipline, and whose medical expertise is that of the eligible patient's illness.

(3) "Primary physician and surgeon" means a physician and surgeon licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)) or an osteopathic physician and surgeon licensed under the Osteopathic Act (Article 21 (commencing with Section 2450)).

(4) "Telehealth" has the same meaning as provided in Section 2290.5.

(b) Notwithstanding any other law, an eligible out-of-state physician and surgeon may practice medicine in the state if the practice is limited to delivering health care via telehealth to an eligible patient.