To amend title XVIII of the Social Security Act to protect access to telehealth services under the Medicare program.

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 “Protecting Rural Telehealth Access Act”.

SEC. 2. ELIMINATION OF RESTRICTIONS RELATING TO TELEHEALTH SERVICES.
(a) Elimination of Geographic Requirements for Originating Sites.—Section 1834(m)(4)(C) of the
(1) in clause (i), in the matter preceding sub-
clause (I), by inserting “and clause (iii)” after “and
(7)”; and
(2) by adding at the end the following new
clause:

“(iii) Elimination of geographic
requirements for originating
sites.—The geographic requirements de-
scribed in clause (i) shall not apply with
respect to telehealth services furnished on
or after January 1, 2021.”.

(b) Elimination of Restrictions in Which
Telehealth Services May Be Furnished in the
Home.—Section 1834(m)(4)(C)(ii)(X) of the Social Secu-
rity Act (42 U.S.C. 1395m(m)(4)(C)(i)(X) is amended to
read as follows:

“(X)(aa) For the period begin-
ing on the date of the enactment of
this subclause and ending on Decem-
ber 31, 2020, the home of an indi-
vidual but only for purposes of section
1881(b)(3)(B) or telehealth services
described in paragraph (7).
“(bb) For the period beginning on or after January 1, 2021, the home of an individual.”

(c) Elimination of Restrictions on Store-and-Forward Technologies.—The second sentence of section 1834(m)(1) of the Social Security Act (42 U.S.C. 1395m(m)(1)) is amended by striking “in the case of any Federal telemedicine demonstration program conducted in Alaska or Hawaii,”.

SEC. 3. TELEHEALTH FLEXIBILITIES FOR CRITICAL ACCESS HOSPITALS.

Section 1834(m) of the Social Security Act (42 U.S.C. 1395m(m)) is amended—

(1) in the first sentence of paragraph (1), by striking “paragraph (8)” and inserting “paragraphs (8) and (9)”;

(2) in paragraph (2)(A), by striking “paragraph (8)” and inserting “paragraphs (8) and (9)”;

(3) in paragraph (4)—

(A) in subparagraph (A), by striking “paragraph (8)” and inserting “paragraphs (8) and (9)”;

(B) in subparagraph (F)(i), by striking “paragraph (8)” and inserting “paragraphs (8) and (9)”;

and
(4) by adding at the end the following new paragraph:

“(9) TELEHEALTH FLEXIBILITIES FOR CRITICAL ACCESS HOSPITALS.—

“(A) IN GENERAL.—On or after the date of the enactment of this paragraph—

“(i) the Secretary shall pay for telehealth services that are furnished via a telecommunications system by a critical access hospital, including any practitioner authorized to provide such services within the facility, that is a qualified provider (as defined in subparagraph (B)) to an eligible telehealth individual enrolled under this part notwithstanding that the critical access hospital providing the telehealth service is not at the same location as the beneficiary, if such services complement a plan of care that includes in-person care at some point, as may be appropriate;

“(ii) the amount of payment to a critical access hospital that serves as a distant site for such a telehealth service shall be determined under subparagraph (C); and

“(iii) for purposes of this subsection—
“(I) the term ‘distant site’ includes a critical access hospital that furnishes a telehealth service to an eligible telehealth individual; and

“(II) the term ‘telehealth services’ includes behavioral health services and any other outpatient critical access hospital service that is furnished using telehealth to the extent that payment codes corresponding to services identified by the Secretary under clause (i) or (ii) of paragraph (4)(F) are listed on the corresponding claim for such critical access hospital service.

“(B) Definition of qualified provider.—For purposes of this subsection, the term ‘qualified provider’ means, with respect to a telehealth service described in subparagraph (A)(i) that is furnished to an eligible telehealth individual, a critical access hospital that has an established patient relationship with such individual as defined by the State in which the individual is located.
“(C) PAYMENT.—The amount of payment to a critical access hospital that serves as a distant site that furnishes a telehealth service to an eligible telehealth individual under this paragraph shall be equal to 101 percent of the reasonable costs of the hospital in providing such services, unless the hospital makes an election under paragraph (2) of section 1834(g) to be paid for such services based on the methodology described in such paragraph. Telehealth services furnished by a critical access hospital shall be counted for purposes of determining the provider productivity rate of the critical access hospital for purposes of payment under such section.

“(D) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement this paragraph through program instruction, interim final rule, or otherwise.”.

SEC. 4. EXTENDING MEDICARE TELEHEALTH FLEXIBILITIES FOR FEDERALLY QUALIFIED HEALTH CENTERS AND RURAL HEALTH CLINICS.

Section 1834(m)(8) of the Social Security Act (42 U.S.C. 1395m(m)(8)) is amended—
(1) in the paragraph heading by striking “DURING EMERGENCY PERIOD”;

(2) in subparagraph (A), in the matter preceding clause (i), by inserting “and after such emergency period” after “1135(g)(1)(B)”;

(3) by striking subparagraph (B) and inserting the following:

“(B) PAYMENT.—

“(i) IN GENERAL.—A telehealth service furnished by a Federally qualified health center or a rural health clinic to an eligible telehealth individual pursuant to this paragraph or after the date of the enactment of this subparagraph shall be reimbursed under this title at a separate telehealth payment rate as determined under the methodology established by the Secretary pursuant to clause (ii).

“(ii) PAYMENT METHODOLOGY.—The Secretary shall establish a methodology for determining the appropriate payment rate for telehealth services described in clause (i). Such methodology shall consider—
“(I) the geography of Federally qualified health centers and rural health clinics;
“(II) costs associated with the delivery of such telehealth services as allowable costs for the center or clinic; and
“(III) the full cost of providing the services via telehealth.
“(iii) IMPLEMENTATION.—
“(I) CODING SYSTEM.—The Secretary shall establish an effective coding system for telehealth services described in clause (i) that is reflective of the services provided at a center or clinic.
“(II) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement this subparagraph through program instruction, interim final rule, or otherwise.”; and
(4) by adding at the end the following new sub-paragraph:
“(C) REQUIREMENT DURING ADDITIONAL PERIOD.—

“(i) IN GENERAL.—Beginning on the first day after the end of the emergency period described in section 1135(g)(1)(B), payment may only be made under this paragraph for a telehealth service described in subparagraph (A)(i) that is furnished to an eligible telehealth individual if such service is furnished by a qualified provider (as defined in clause (ii)).

“(ii) DEFINITION OF QUALIFIED PROVIDER.—For purposes of this subparagraph, the term ‘qualified provider’ means, with respect to a telehealth service described in subparagraph (A)(i) that is furnished to an eligible telehealth individual, a Federally qualified health center or rural health clinic that has an established patient relationship with such individual as defined by the State in which the individual is located.”.
SEC. 5. ALLOWANCE OF CERTAIN TELEHEALTH SERVICES

FURNISHED USING AUDIO-ONLY TECHNOLOGY.

Section 1834(m)(4) of the Social Security Act (42 U.S.C. 1395m(m)(4)) of the Social Security Act (42 U.S.C. 1395m(m)(4)) is amended by adding at the end the following new subparagraph:

“(G) TELECOMMUNICATIONS SYSTEM.—

“(i) IN GENERAL.—Notwithstanding paragraph (1) and section 410.78(a)(3) of title 42, Code of Federal Regulations (or any successor regulation), subject to clause (v), the term ‘telecommunications system’ includes, in the case of the furnishing of a specified telehealth service (as defined in clause (ii)) a communications system that uses audio-only technology.

“(ii) SPECIFIED TELEHEALTH SERVICE.—In this subparagraph, the term ‘specified telehealth service’ means a telehealth service described in clause (iii) that is furnished by a qualified provider (as defined in clause (iv)).

“(iii) TELEHEALTH SERVICE DESCRIBED.—A telehealth service described
in this clause is a telehealth service consisting of—

“(I) evaluation and management services;

“(II) behavioral health counseling and educational services; and

“(III) other services determined appropriate by the Secretary.

“(iv) QUALIFIED PROVIDER DEFINED.—

“(I) IN GENERAL.—For purposes of clause (ii), the term ‘qualified provider’ means, with respect to a specified telehealth service that is furnished to an eligible telehealth individual—

“(aa) a physician or practitioner who has an established patient relationship with such individual as defined by the State in which the individual is located; or

“(bb) a critical access hospital (as defined in section 1861(mm)(1)), a rural health clinic (as defined in section
1861(aa)(2)), a Federally qualified health center (as defined in section 1861(aa)(4)), a hospital (as defined in section 1861(e)), a hospital-based or critical access hospital-based renal dialysis center (including satellites), a skilled nursing facility (as defined in section 1819(a)), a community mental health center (as defined in section 1861(ff)(3)(B)), or a rural emergency hospital (as defined in section 1861(kkk)(2)).

“(v) Authority.—For purposes of this subparagraph, the Secretary may determine whether it is clinically appropriate to furnish a specified telehealth service via a communications system that uses audio-only technology and whether an in-person initial visit (in addition to any requirement with respect to the furnishing of an item or service in person pursuant to clause (iv)(I)) is required prior to the furnishing of such service using such technology.
“(vi) **Clarification regarding payment.**—The amount of payment for a specified telehealth service that is furnished using audio-only technology shall be equal to the amount that would have been paid for such service under this subsection had such service been furnished via any other telecommunications system authorized under this subsection.”.

**SEC. 6. Sense of Congress regarding expansion of eligible practitioners that may furnish telehealth services.**

It is the sense of Congress that the expansion of eligible practitioners that may furnish telehealth services (as defined in section 1834(m)(4)(F) of the Social Security Act (42 U.S.C. 1395m(m)(4)(F))) during the emergency period described in section 1135(g)(1)(B) of such Act (42 U.S.C. 1320b–5(g)(1)(B)) should be extended on a permanent basis.