A new section 329-1.4 of Title 12 NYCRR is hereby added to read as follows:

329-1.4. Remote intraoperative neurophysiological monitoring prohibited.

(a) Definitions.

(1) **Intraoperative Neurophysiological Monitoring (“IOM”):** IOM identifies compromise to the nervous system during surgical procedures. Evoked responses are constantly monitored for changes that could imply damage to the nervous system. The Monitoring Physician or qualified Technologist sets up and operates the monitoring equipment in the operating room. The Technologist shall be in constant attendance in the operating suite with the physical or electronic capacity for real-time communication with the Monitoring Physician.

(2) **Monitoring Physician:** any licensed physician trained in neurophysiology who monitors a patient’s nervous system throughout a surgical procedure. The Monitoring Physician provides constant neuromonitoring at critical points during the surgical procedure as indicated by the surgeon or any unanticipated testing responses. The Monitoring Physician shall be in constant attendance in the operating suite or available for consultation (in-person or by telephone) and available to provide actual on-premises assistance when needed or in an emergency. Physician monitoring for IOM services shall be by computer/video and telephone backup shall be available for instances when the internet is unavailable. The billing code to be used is CPT 95940.

(3) **Technologist:** The IOM Technologist shall be specifically trained in/registered with: (a) the American Society of Neurophysiologic Monitoring or (b) The American Society of Electrodiagnostic Technologists. An IOM Technologist is not eligible for authorization as a provider under the Workers’ Compensation Law. Accordingly, there is no reimbursement allowance for the services of the technologist.

(b) Prohibition. IOM must be performed by a Monitoring Physician who is either continuously present in the operating suite or available for consultation (in-person or by telephone) and available to provide actual on-premises assistance when needed or in an emergency. Billing code 95941 shall not be used.

(c) IOM does not qualify for treatment via telehealth.