
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1648 Session of
2017

INTRODUCED BY M. QUINN, BAKER, BARRAR, BRIGGS, R. BROWN,
V. BROWN, CAUSER, CORBIN, DALEY, DAVIDSON, DAVIS, DAWKINS,
EVERETT, FRITZ, HARKINS, PHILLIPS-HILL, MACKENZIE, MENTZER,
D. MILLER, MURT, MUSTIO, ORTITAY, C. QUINN, READSHAW, ROZZI,
SCHLOSSBERG, TOBASH, TOOHIL, TOPPER AND WARD, JULY 7, 2017

REFERRED TO COMMITTEE ON INSURANCE, JULY 7, 2017

AN ACT

1 Providing for telemedicine, for insurance coverage of
2 telemedicine services and for Medicaid program reimbursement.

3 The General Assembly of the Commonwealth of Pennsylvania
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Telemedicine
7 Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Ancillary service plans." An individual or group health
13 insurance plan, subscriber contract or certificate that provides
14 exclusive coverage for dental services or vision services.

15 "Health care practitioner." Any of the following:

16 (1) A health care practitioner as defined in section 103

1 of the act of July 19, 1979 (P.L.130, No.48), known as the
2 Health Care Facilities Act.

3 (2) A federally qualified health center as defined in
4 section 1861(aa)(4) of the Social Security Act (49 Stat. 620,
5 42 U.S.C. § 1395x(aa)(4)).

6 (3) A rural health clinic as defined in section 1861(aa)
7 (2) of the Social Security Act (49 Stat. 620, 42 U.S.C. §
8 1395x(aa)(2)).

9 "Health care services." Services for the diagnosis,
10 prevention, treatment, cure or relief of a health condition,
11 injury, disease or illness.

12 "Health insurance policy." As follows:

13 (1) An individual or group health insurance policy,
14 contract or plan that provides medical or health care
15 coverage by a health care facility or health care
16 practitioner that is offered by an entity subject to any of
17 the following:

18 (i) The act of May 17, 1921 (P.L.682, No.284), known
19 as The Insurance Company Law of 1921.

20 (ii) Article XXIV of The Insurance Company Law of
21 1921.

22 (iii) The act of December 29, 1972 (P.L.1701,
23 No.364), known as the Health Maintenance Organization
24 Act.

25 (iv) 40 Pa.C.S. Ch. 61 (relating to hospital plan
26 corporations).

27 (v) 40 Pa.C.S. Ch. 63 (relating to professional
28 health services plan corporations).

29 (2) The term does not include accident only, fixed
30 indemnity, limited benefit, credit, specified disease,

1 Medicare supplement, Civilian Health and Medical Program of
2 the Uniformed Services (CHAMPUS) supplement, long-term care
3 or disability income, workers' compensation or automobile
4 medical payment insurance.

5 "Interactive audio." The use of asynchronous store and
6 forward technology in conjunction with synchronous audio
7 interaction between a health care practitioner and a patient.

8 "Store and forward technology." Technology that stores and
9 transmits or grants access to a patient's clinical information
10 for review by a health care practitioner who is at a different
11 location.

12 "Telemedicine" or "telehealth." The delivery of health care
13 services provided through technology to a patient by a health
14 care practitioner who is at a different location. The term
15 includes a real-time encounter between the patient and health
16 care practitioner through interactive audio, video or other
17 telecommunications or electronic technology and the acquisition,
18 evaluation and transmission of patient information outside of a
19 real-time encounter, including store and forward technology and
20 remote patient monitoring of medical data. The term does not
21 include the use of audio-only telephone conversation, voicemail,
22 facsimile, e-mail, instant messaging, text messaging, an online
23 questionnaire or any combination thereof, nor an automated
24 computer program used to diagnose or treat ocular or refractive
25 conditions.

26 Section 3. Licensure of health care practitioner.

27 (a) Requirements.--

28 (1) The Commonwealth's health professional licensure
29 boards shall maintain consistent licensure or certification
30 and standards of care requirements between in-person and

1 telemedicine-provided practices for health care
2 practitioners.

3 (2) Nothing in this section is intended to create a new
4 standard of care.

5 (b) Rules and regulations.--

6 (1) The board or licensing entity governing a health
7 care practitioner covered by this section may promulgate
8 regulations consistent with this act to provide for and
9 regulate the use of telemedicine in the delivery of health
10 care services within the scope of practice regulated by the
11 board or licensing entity.

12 (2) The board or licensing entity may not establish a
13 more restrictive standard of professional practice for the
14 practice of telemedicine than that specifically authorized by
15 the health care practitioner's practice act or other
16 specifically applicable statute, including prescribing and
17 dispensing controlled substances.

18 Section 4. Compliance.

19 A health care practitioner shall comply with all applicable
20 Federal and State laws and regulations that would apply if the
21 practitioner were located in this Commonwealth.

22 Section 5. Evaluation and treatment.

23 (a) Requirements.--Except as provided in subsection (b), a
24 health care practitioner who provides a health care service to
25 an individual located in this Commonwealth through telemedicine
26 shall be subject to and comply with the following:

27 (1) The health care practitioner shall:

28 (i) establish a practitioner-patient relationship
29 with the individual in accordance with subsection (c);

30 (ii) prior to treatment of the individual, provide

1 an appropriate virtual examination initiated through a
2 consultation using telemedicine technologies and any
3 peripherals and diagnostic tests necessary to provide an
4 accurate diagnosis, if an in-person examination would
5 otherwise be medically appropriate in the provision of
6 the same service not delivered via telemedicine, as
7 reasonably determined by the professional independent
8 judgment of the health care practitioner; or

9 (iii) establish a telemedicine practitioner-patient
10 relationship that meets standards included in evidence-
11 based telemedicine clinical practice guidelines.

12 (2) The same standards of care applicable to
13 traditional, in-person health care services shall apply to
14 treatment and consultation recommendations made via
15 telemedicine.

16 (3) The health care practitioner while practicing
17 telemedicine may utilize interactive audio without the
18 requirement of video if, after access and review of the
19 patient's medical records, the practitioner determines that
20 the practitioner is able to meet the same standard of care as
21 if the health care services were provided in person. The
22 practitioner shall inform the patient that the patient has
23 the option to request telemedicine services that include
24 video.

25 (4) The health care practitioner shall have an emergency
26 action plan in place for medical emergencies and referrals
27 when needed.

28 (b) Exceptions.--This section shall not apply to the
29 following:

30 (1) Consultation by a health care practitioner with

1 another health care practitioner who has an ongoing
2 practitioner-patient relationship with the individual that
3 was established through an in-person or appropriate virtual
4 examination and agrees to supervise the individual's care.

5 (2) The provision of on-call or cross-coverage health
6 care services to the active patients of another health care
7 practitioner in the same specialty, provided that the health
8 care practitioner whose active patients are being provided
9 the health care services has designated the exempted health
10 care practitioner as an on-call or cross-coverage health care
11 practitioner for the health care practitioner's active
12 patients.

13 (c) Practitioner-patient relationship.--For purposes of
14 subsection (a) (1), a practitioner-patient relationship is
15 established when the health care practitioner satisfies each of
16 the following:

17 (1) Verifies the location and identity of the individual
18 receiving care each time health care services are provided
19 through telemedicine.

20 (2) Discloses the health care practitioner's identity,
21 geographic location and medical specialty or applicable
22 credentials.

23 (3) Obtains informed consent regarding the use of
24 telemedicine technologies from the individual or other person
25 acting in a health care decision-making capacity for the
26 individual.

27 (4) Establishes a diagnosis and treatment plan, as
28 reasonably determined by the professional independent
29 judgment of the health care practitioner.

30 (5) Creates and maintains an electronic medical record

1 or updates an existing electronic medical record for the
2 patient within 24 hours. The electronic medical record shall
3 be maintained in accordance with electronic medical records
4 privacy rules under the Federal Health Insurance Portability
5 and Accountability Act of 1996 (Public Law 104-191, 110 Stat.
6 1936).

7 (6) Provides a visit summary to the individual.

8 Section 6. Coverage of telemedicine services.

9 (a) Insurance coverage and reimbursement.--

10 (1) A health insurance policy or ancillary service plan
11 issued, delivered, executed or renewed in this Commonwealth
12 after the effective date of this section shall provide
13 coverage for health care services consistent with the
14 insurer's medical policy. A health insurance policy or
15 ancillary service plan may not exclude a health care service
16 for coverage solely because the service is provided through
17 telemedicine.

18 (2) An insurer, corporation or health maintenance
19 organization shall reimburse the health care practitioner for
20 health care services delivered through telemedicine if the
21 insurer, corporation or health maintenance organization
22 reimburses for the same service through in-person
23 consultation. Payment for telemedicine encounters shall be
24 established between the health care practitioner and insurer.

25 (b) Construction of law.--Nothing in this act shall be
26 construed to prohibit a health insurance policy or ancillary
27 service plan from providing reimbursement for a health care
28 service delivered through telemedicine where the same or similar
29 service is not otherwise eligible for reimbursement when
30 provided through in-person consultation or other contact between

1 a health care practitioner and an individual.

2 Section 7. Expansion.

3 Nothing in this act shall be construed to expand a health
4 care practitioner's scope of practice subject to State licensure
5 laws.

6 Section 8. Medicaid program reimbursement.

7 (a) General rule.--The Department of Human Services shall
8 provide medical assistance coverage and reimbursement, including
9 medical assistance fee-for-service and managed care programs,
10 for health care services delivered through telemedicine in
11 accordance with this act.

12 (b) Construction of law.--Nothing in this act shall be
13 construed to require the department to provide reimbursement for
14 health care services ineligible for reimbursement under medical
15 assistance fee-for-service and managed care program guidelines
16 established under 42 CFR Ch. IV Subch. C (relating to medical
17 assistance programs).

18 Section 9. Effective date.

19 This act shall take effect in 90 days.