

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 412 Session of
2001

INTRODUCED BY LEMMOND, TILGHMAN, MUSTO, ROBBINS, BOSCOLA,
TOMLINSON, MELLOW, MADIGAN, WOZNIAK, WILLIAMS, STOUT, BELL,
WENGER AND THOMPSON, FEBRUARY 12, 2001

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
FEBRUARY 12, 2001

AN ACT

1 Regulating certain services provided by a nonresident physician
2 or osteopathic physician.

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. Legislative findings and intent.

9 The General Assembly finds and declares as follows:

10 (1) That due to technological advances and changing
11 practice patterns, the practice of medicine is occurring with
12 increasing frequency across state lines, and that certain
13 technological advances in the practice of medicine are in the
14 public interest.

15 (2) That recent technological advances in electronic
16 data transmission have made it possible for nonresident
17 physicians and osteopathic physicians, not licensed in this

Commonwealth, to render written or otherwise documented
opinions for patients residing in this Commonwealth and that
these opinions may directly affect patient care.

(3) That the practice of medicine is a privilege and
that the licensure of practitioners outside this Commonwealth
engaging in such medical practice within this Commonwealth
and the ability to discipline such practitioners is both
necessary and desirable for the protection of the citizens of
this Commonwealth and for the public interest, health,
welfare and safety.

Section 3. Definitions.

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

"Board." The State Board of Medicine or the State Board of
Osteopathic Medicine.

"Healing arts." The science and skill of diagnosis and
treatment in any manner whatsoever of disease or any ailment of
the human body.

"Health care practitioner." An individual, other than a
physician assistant, who is authorized to practice some
component of the healing arts by a license, permit, certificate
or registration issued by a licensing agency or board of the
Commonwealth or any other jurisdiction.

"License." A license to practice medicine granted under this
act.

"Licensed practitioner." Any physician or osteopath licensed
to practice medicine in this Commonwealth.

"Medicine and surgery." The art and science of which the
objectives are the cure of diseases and the preservation of the

1 health of man, including the practice of the healing arts with
2 or without drugs, except healing by spiritual means or prayer.

3 "Physician." An individual who has acquired one of the
4 following licenses or their equivalents in jurisdictions other
5 than this Commonwealth to practice medicine and surgery:

6 (1) License without restriction.

7 (2) Interim limited license.

8 (3) Graduate license.

9 (4) Institutional license.

10 (5) Temporary license.

11 (6) Extraterritorial license.

12 "Practice of medicine across state lines." A physician or
13 osteopathic physician located or licensed, or both, outside of
14 this Commonwealth rendering a written or otherwise documented
15 medical opinion concerning diagnosis or treatment of a patient
16 within this Commonwealth or for the purpose of such physician or
17 osteopathic physician rendering treatment to a patient within
18 this Commonwealth, as a result of transmission of individual
19 patient data, by electronic or other means, from within this
20 Commonwealth to a location outside this Commonwealth to such
21 physician or his or her agent. The term does not include
22 telephone consultations between Commonwealth physicians and
23 nonresident physicians or osteopathic physicians for which
24 compensation is neither given nor expected.

25 "Telemedicine." The electronic transmission of medical data,
26 other than through telephone calls from one physician to
27 another, from one location to another for the purposes of
28 interpretation or consultation.

29 "Teleradiology." The electronic transmission of radiological
30 images such as X-rays, CAT scans, etc., so that interpretation

1 of these images can be made at a remote site. The term does not
2 include consultations between Commonwealth physicians and
3 nonresident physicians or osteopathic physicians for which
4 compensation is neither given nor expected.

5 Section 4. License requirement.

6 (a) Licensure.--Any physician or osteopathic physician who
7 is physically located in and/or licensed by another jurisdiction
8 but who through the use of telemedicine or teleradiology
9 performs an act that is part of a patient-care service initiated
10 in this Commonwealth and that would directly affect the
11 diagnosis or treatment of the patient is engaged in the practice
12 of medicine in this Commonwealth.

13 (b) Regulation.--The nonresident physicians or osteopathic
14 physicians who perform these services through electronic media,
15 since they are engaged in the practice of medicine or
16 osteopathic medicine in this Commonwealth, shall obtain a
17 license without restriction to practice medicine or osteopathic
18 medicine in this Commonwealth and shall be subject to the same
19 requirements, including requirements to purchase malpractice
20 insurance and participate in the Medical Professional
21 Catastrophe Loss Fund, as other physicians with full and
22 unrestricted licenses practicing in this Commonwealth.

23 Section 5. Exceptions.

24 This act shall not apply to:

25 (1) The acts of a medical specialist located or
26 licensed, or both, outside of this Commonwealth who provides
27 only episodic consultation on request and for which
28 compensation is neither given nor expected to a person
29 licensed in this Commonwealth.

30 (2) The acts of another physician or osteopathic

1 physician located or licensed, or both, outside of this
2 Commonwealth who is providing consultation to a medical
3 school or residency training program.

4 (3) Dentists who are duly qualified and registered under
5 the laws of this Commonwealth and who confine their practice
6 strictly to dentistry.

7 (4) Duly licensed optometrists who confine their
8 practice strictly to optometry as defined by law.

9 (5) Duly licensed chiropractors who confine their
10 practice strictly to chiropractic as defined by law.

11 (6) Duly licensed podiatrists who confine their practice
12 strictly to podiatry as defined by law.

13 (7) Duly licensed or certified psychologists who confine
14 their practice strictly to psychology as defined by law.

15 (8) Duly licensed physical therapists who confine their
16 activities or practice strictly to physical therapy and who
17 are not in violation of any law relating to physical therapy
18 practice.

19 (9) Registered or professional nurses and licensed
20 vocational nurses registered or licensed under the laws of
21 this Commonwealth who confine their practice strictly within
22 the provisions of such applicable licensing acts and laws of
23 this Commonwealth.

24 (10) Commissioned or contract physicians and osteopathic
25 physicians of the uniformed services of the United States or
26 in the Public Health Service in the performance of their
27 duties and not engaged in private practice.

28 (11) A student in training in a medical school while
29 performing the duties assigned in the course of training,
30 provided the duties are performed under the supervision of a

1 licensed practitioner, except that medical residents, interns
2 and fellows shall be required to register and be subject to
3 the other applicable provisions of this act.

4 (12) A legally certified physician or osteopathic
5 physician who is a resident of another state, territory or
6 nation who is in this Commonwealth solely for consultation
7 with licensed practitioners but who does not:

8 (i) have an office in this Commonwealth; or

9 (ii) appoint a place in this Commonwealth for
10 seeing, examining or treating patients.

11 (13) Any other activities that the board may designate
12 as exempt from the application of this act.

13 Section 6. Sanctions.

14 Any person who violates the provisions of this act is subject
15 to criminal prosecution for the unlicensed practice of medicine
16 and/or to injunctive or other action authorized in this
17 Commonwealth to prohibit continued practice without a license.

18 Section 7. Effective date.

19 This act shall take effect immediately.