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

Section 1. Short title.

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

Section 2. 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:

"Asynchronous interaction." An exchange of information between a patient and a health care provider that does not occur in real time, including the secure collection and transmission of a patient's medical information, clinical data, clinical images, laboratory results and self-reported medical history.
"Emergency medical condition." A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in placing the health of the individual in serious jeopardy, serious impairment to bodily functions or serious dysfunction of a bodily organ or part.

"Health care provider" or "provider." Any of the following:

(1) An individual who is licensed, certified, registered, permitted or otherwise authorized by law regulated to provide health care services in UNDER THE LAWS OF this Commonwealth.

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

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

(4) A general, mental, chronic disease or other type of hospital licensed in this Commonwealth.

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

"Health Information Technology for Economic and Clinical Health Act." The Health Information Technology for Economic and Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and 467-496).

"Health insurance policy." As follows:

(1) An individual or group health insurance policy, contract or plan that provides coverage for services provided
by a health care facility or health care provider that is
offered by a health insurer.

(2) The term includes an individual or group health
insurance policy, contract or plan that provides dental or
vision coverage through a provider network.

(3) Except as provided under paragraph (2), the term
does not include accident only, fixed indemnity, limited
benefit, credit, dental, vision, specified disease, Medicare
supplement, Civilian Health and Medical Program of the
Uniformed Services (CHAMPUS) supplement, long-term care or
disability income, workers’ compensation or automobile
medical payment insurance.

"Health Insurance Portability and Accountability Act of
1996." The Health Insurance Portability and Accountability Act

"Health insurer." An entity that holds a valid license by
the Insurance Department with accident and health authority to
issue a health insurance policy and governed under any of the
following:

(1) The act of May 17, 1921 (P.L.682, No.284), known as
The Insurance Company Law of 1921, including section 630 and
Article XXIV.

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

(3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
corporations).

(4) 40 Pa.C.S. Ch. 63 (relating to professional health
services plan corporations).

"Licensure board." Each licensing board within the Bureau of
Professional and Occupational Affairs of the Department of State
with jurisdiction over a health care provider under this act.
"On-call or cross-coverage services." The provision of telemedicine by a health care provider designated by another provider with a provider-patient relationship to deliver services on a temporary basis so long as the designated provider is in the same group or health system, has access to the patient's prior medical records, holds a valid license in this Commonwealth and is in a position to coordinate care.
"Participating network provider." A health care provider who has a network participation agreement with an insurer.
"Provider-to-provider consultation." The act of seeking advice and recommendations from another health care provider for diagnostic studies, therapeutic interventions or other services that may benefit the patient of the initiating health care provider.
"Remote patient monitoring." The collection of physiological data from a patient in one location, which is transmitted via electronic communication technologies to a provider in a different location for use in care and related support of the patient.
"Synchronous interaction." A two-way or multiple-way exchange of information between a patient and a health care provider that occurs in real time via audio or video conferencing.
"Telemedicine." The delivery of health care services to a patient by a health care provider who is at a different location, through synchronous interactions, asynchronous interactions or remote patient monitoring that meet the requirements of the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology
for Economic and Clinical Health Act or other applicable Federal
or State law regarding the privacy and security of electronic
transmission of health information. The term does not include
any of the following:

(1) The provision of health care services solely through
the use of voicemail, facsimile, e-mail or instant messaging
or a combination thereof.

(2) A provider-to-provider consultation.

Section 3. Regulation of telemedicine by professional licensure
boards.

Each licensure board shall promulgate regulations that are
consistent with this act to provide for and regulate
telemedicine within the scope of practice and standard of care
regulated by the board. The regulations shall:

(1) Consider model policies and clinical guidelines for
the appropriate use of synchronous interactions, asynchronous
interactions and remote patient monitoring.

(2) Include patient privacy and data security standards
that comply with Federal and State law, including the Health
Insurance Portability and Accountability Act of 1996 and the
Health Information Technology for Economic and Clinical
Health Act.

Section 4. Compliance.

A health care provider providing telemedicine services to an
individual located within this Commonwealth shall comply with
all applicable Federal and State laws and regulations. Failure
to comply with applicable laws and regulations shall subject the
health care provider to discipline by the respective licensure
board.

(a) Requirements.--A health care provider who provides healthcare services via telemedicine to an individual located in this Commonwealth shall comply with the following:

(1) For a telemedicine encounter in which the provider does not have an established provider-patient relationship, the provider shall:

   (i) verify the location and identity of the individual receiving care; and

   (ii) disclose the health care provider's identity, geographic location and medical specialty or applicable credentials.

(2) Obtain oral or written consent regarding the use of telemedicine from the individual or other person acting in a health care decision-making capacity for the individual. The individual or other person acting in a health care decision-making capacity, including the parent or legal guardian of a child in accordance with the act of February 13, 1970 (P.L.19, No.10), entitled "An act enabling certain minors to consent to medical, dental and health services, declaring consent unnecessary under certain circumstances," has the right to choose the form of service delivery, which includes the right to refuse telemedicine services without jeopardizing the individual's access to other available services.

(3) Perform a clinical evaluation that is appropriate for the patient and the condition with which the patient presents before providing treatment or issuing a prescription through the use of telemedicine. A healthcare provider may use a synchronous telemedicine interaction or an
(4) Establish a diagnosis and treatment plan or execute a treatment plan—IF DEEMED APPROPRIATE IN THE HEALTH CARE PROVIDER'S CLINICAL JUDGMENT.

(5) Create and maintain an electronic medical record or update an existing electronic medical record for the patient within 24 hours. An electronic medical record shall be maintained in accordance with electronic medical records privacy rules under the Health Insurance Portability and Accountability Act of 1996.

(6) Provide a visit summary to the individual if requested.

(7) Have an emergency action plan in place for medical and behavioral health emergencies and referrals.

(b) Disclosures.--Providers offering online refractive services OR ONLINE DENTAL EVALUATIONS shall inform patients that the service is not an ocular health exam OR A COMPREHENSIVE DENTAL EXAMINATION. This subsection shall not be construed to prohibit online refractive services OR ONLINE DENTAL EVALUATIONS if the information notice is clearly and conspicuously communicated to the patient prior to the online refractive service OR ONLINE DENTAL EVALUATION.

(c) Applicability.--

(1) Subsection (a)(1) shall not apply to on-call or cross-coverage services.

(2) Subsection (a)(1) and (2) shall not apply to an emergency medical condition.

(d) Standard of care.--A health care provider providing health care services through telemedicine shall be subject to
the standard of care that would apply to the provision of the same health care services in an in-person setting.

Section 6. Insurance coverage of telemedicine.

(a) Insurance coverage and reimbursement.--

(1) A health insurance policy issued, delivered, executed or renewed in this Commonwealth after the effective date of this section shall provide coverage for medically necessary telemedicine delivered by a participating network provider who provides a covered service via telemedicine consistent with the insurer's medical policies. A health insurance policy may not exclude a health care service for coverage solely because the service is provided through telemedicine.

(2) Subject to paragraph (1), a health insurer shall reimburse a health care provider that is a participating network provider for both in-person and telemedicine services in accordance with the terms and conditions of the network participation agreement as negotiated between the insurer and the participating provider, the form of which shall be filed with and subject to review by the Department of Health. The network participation agreement may not prohibit reimbursement solely because a health care service is provided by telemedicine. Reimbursement shall not be conditioned upon the use of an exclusive or proprietary telemedicine technology or vendor.

(3) Payment for a covered service provided via telemedicine by any participating network provider shall be negotiated between the health care provider and health insurer.

(b) Applicability.--This section shall apply as follows:
(1) Subsection (a)(1) and (2) shall not apply if the telemedicine service is facilitated via a medical device or other technology that provides clinical data or information, excluding existing information in an electronic medical records system, other than that independently provided through synchronous or asynchronous interactions OR REMOTE PATIENT MONITORING with the patient.

(2) For a health insurance policy for which either rates or forms are required to be filed with the Federal Government or the Insurance Department, this section shall apply to a policy for which a form or rate is first filed on or after 180 days after the effective date of this section.

(3) For a health insurance policy for which neither rates nor forms are required to be filed with the Federal Government or the Insurance Department, this section shall apply to a policy issued or renewed on or after 180 days after the effective date of this section.

(c) Construction.--Nothing under this section shall be construed to:

(1) Prohibit a health insurer from reimbursing other providers for covered services provided via telemedicine.

(2) Require a health insurer to reimburse an out-of-network provider for telemedicine.

(3) REQUIRE A HEALTH INSURER TO REIMBURSE A PARTICIPATING NETWORK PROVIDER IF THE PROVISION OF THE SERVICE USING TELEMEDICINE WOULD BE INCONSISTENT WITH THE STANDARD OF CARE.

Section 7. Medicaid program reimbursement.

(a) Medical assistance payment.--Medical assistance payments shall be made on behalf of eligible individuals for
telemedicine, consistent with Federal law, as specified under this act if the service would be covered through an in-person encounter.

(b) Applicability.--Subsection (a) does not apply if:

(1) the telemedicine-enabling device, technology or service fails to comply with applicable law and regulatory guidance regarding the secure transmission and maintenance of patient information; or

(2) the provision of the service using telemedicine would be inconsistent with the standard of care.

Section 8. Effective date.

This act shall take effect as follows:

(1) Section 7 shall take effect in 90 days.

(2) The remainder of this act shall take effect immediately.