

# SENATE APPROPRIATIONS COMMITTEE

## FISCAL NOTE

**BILL NO.** Senate Bill 739

**PRINTER NO.** 981

**AMOUNT**

No Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

June 2, 2023

**PRIME SPONSOR**

Senator Vogel

**DESCRIPTION**

Senate Bill 739 establishes the Telemedicine Act and provides for the regulation of telemedicine by professional licensing boards, for insurance coverage of telemedicine and for payment of health care providers for telemedicine services.

The bill requires each professional licensure board to regulate health care providers to ensure the use of telemedicine is consistent with the health care provider's scope of practice and that services so provided meet the same standard of care applicable in an in-person setting. Licensure boards may not establish a separate standard of care for telemedicine.

Senate Bill 739 mandates providers to comply with all applicable federal and state laws and regulations. Failure to comply shall subject a provider to discipline by the respective licensure board.

The bill requires a health care provider who provides healthcare services via telemedicine to patients located in the Commonwealth to comply with the following:

- For encounters in which the health care provider does not have an established provider-patient relationship, disclose the provider's identity and applicable state and type of license;
- Verify the state location and identity of the patient with at least two identifiers;
- Obtain and document consent after disclosing treatment methods or limitations of telemedicine, including when it is advisable to seek in-person care;
- Perform an appropriate clinical evaluation for the patient and the condition before providing treatment or issuing a prescription;
- Establish a diagnosis and treatment plan;
- Document in the patient's medical record the health care services rendered;
- Create a visit summary and offer to the patient; and
- Have an emergency action plan in place for medical and behavioral health emergencies.

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Health care providers licensed or regulated under the laws of this Commonwealth may provide telemedicine to patients located in this Commonwealth or to patients located outside this Commonwealth to the extent permissible by the laws of the state where the patient is located.

Health care providers licensed or regulated solely under the laws of another state may provide telemedicine to patients located in this Commonwealth only in the following circumstances:

- For existing provider-patient relationships in which the patient is temporarily located within this Commonwealth; or
- Patients located within this Commonwealth prospectively seeking care or receiving follow-up care for a health care service that would be or has been provided outside this Commonwealth.

Health insurance policies shall provide coverage for medically necessary and covered health care services delivered through telemedicine by a participating network provider consistent with the insurer's medical policies and may not exclude coverage solely because the service is provided through telemedicine. Reimbursement rates shall be negotiated and may not be conditioned upon the use of an exclusive proprietary technology or vendor.

Nothing shall prohibit or require an insurer from reimbursing other health care providers, such as those out-of-network, for health care services provided through telemedicine. Nothing shall require an insurer to reimburse participating network providers if the provision of the health care service through telemedicine would be inconsistent with the standard of care.

The bill requires payments to be made on behalf of enrollees for medically necessary health care services provided through telemedicine if the service would be covered through an in-person encounter and is consistent with federal and state law, applicable regulations and clinical guidance. Reimbursement rates to participating network providers shall be negotiated.

Nothing shall require a Medical Assistance or Childrens' Health Insurance Program managed care plan to reimburse if the provision of the health care service through telemedicine would be inconsistent with the standard of care.

This act shall take effect immediately except the sections related to insurance coverage and reimbursement of telemedicine and Medical Assistance and Children's Health Insurance programs which shall take effect in 90 days.

### **FISCAL IMPACT:**

Enactment of this legislation will have no fiscal impact on Commonwealth funds. The bill will codify into statute the current practice that is being utilized by the Commonwealth authorized by the Medical Assistance Bulletin #99-23-08, which allows the use of telemedicine.