



**PENNSYLVANIA
HOUSE PROFESSIONAL LICENSURE COMMITTEE
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Senate Bill 780

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Chairman Mustio, Chairman Readshaw and members of the House Professional Licensure Committee, thank you for the opportunity to engage in the public policy discussions surrounding Senate Bill 780, legislation that would establish requirements for the provision of health care services delivered via telemedicine (virtual health) and establish requirements on health insurers to provide coverage for such services.

Highmark Inc. (Highmark) is the insurance arm of Highmark Health, an integrated delivery and financing system providing commercial health insurance products in Pennsylvania, West Virginia, and Delaware and delivering an array of other products through various diversified business entities. The Allegheny Health Network—the provider arm of Highmark Health—is an eight hospital health system providing the highest quality health care throughout western and northwestern Pennsylvania. The comments and recommendations presented to the committee today represent the collective view of Highmark and the Allegheny Health Network.

Background

Senate Bill 780 and Telemedicine—or Virtual Health

Senate Bill 780 would establish certain standards for health care professionals to follow when delivering services through telemedicine—also known as virtual health. Virtual health is not a benefit or treatment. In the simplest terms, virtual health is the use of technology to deliver care or facilitate the delivery of care to a patient when the provider is not physically present with the patient. Similar to a scalpel, a sponge, an x-ray, an MRI, etc., virtual health is a tool to provide care.

This legislation would also place requirements on health insurers to provide coverage for virtual health if the insurer provides coverage for the same services when delivered in an in-person setting. For many years, states have been struggling with developing the appropriate public policy approaches to virtual health—for both commercial and government insurance markets. According to the Public Health Institute Center for Connected Health Policy, 38 states and the District of Columbia have laws governing private payer virtual health policies.¹ America's Health Insurance Plans (AHIP) provides a high level summary of the states' differing laws noting that some states focus on licensure requirements, some focus on geography limiting access to virtual health based on geographic location, and others focus on detailed reimbursement requirements for virtual health.²

In reviewing the approaches taken by other states, recent literature discussing the value of virtual health, and listening to Pennsylvania's provider and health insurance stakeholders, Highmark and AHN believe Pennsylvania should adopt a virtual health law that includes a requirement for insurance coverage of virtual health (or telemedicine as stated in Senate Bill 780), but the legislation should not dictate how such coverage is provided, specifically, it should not anchor virtual health coverage to an in-person visit.

¹ Center for Connected Health Policy, The National Telehealth Policy Resource Center. "State Telehealth Laws and Reimbursement Policies: A Comprehensive Scan of the 50 States and District of Columbia." Spring 2018.

² AHIP, America's Health Insurance Plans. "Telemedicine Mandates and Parity in the Private Market: Summary of State Laws" July 2017

Health insurance market dynamics and limitations of state mandates

Before addressing the specifics of the legislation, it is important to understand the limitations of state health insurance mandate legislation. The Pennsylvania health insurance market is diverse, competitive, and complex. To generalize, the health insurance market can be broken down into the following segments:

- Individual
- Fully-insured small group—employers with no more than 50 employees
- Fully-insured large group—employers with 51 or more employees
- Self-insured group employers—an employer of any size that assumes the insurance risk, i.e. establishes a fund to pay claims, and uses a third party administrator to perform the administrative functions of delivering health insurance (e.g. sending claims payments, establishing a network of providers)
- Government business—Medicare (both Medicare Advantage and supplemental policies), Medicaid, CHIP

This breakdown is relevant because health insurance mandates, such as Senate Bill 780 can only impact the fully insured market. The self-insured and Medicare markets are governed by federal law. This distinction is critically important in the context of Senate Bill 780 as Medicare has its own specific set of rules and policies governing reimbursement for health care services delivered virtually.

Description of AHN virtual health offerings

AHN provides a variety of health care treatment offerings using virtual health. Each program has been developed in a patient centric manner, ensuring privacy, security and the highest standard of care. At a high level, these programs include:

- Primary care video visits
- Primary care e-visits
- Stroke
- Neurology
- Neonatal Intensive Care
- Psychiatry
- Dermatology
- Maternal fetal medicine
- Genetic counseling
- Care Partner-RX clinic
- Sleep medicine

Medical technology will continue to advance allowing AHN, and other health care providers, to develop new and innovative ways to deliver care to patients. AHN has several other programs "in the pipeline" for development and will continue to use the latest technology and clinical care standards to provide the highest level of patient care.

Highmark's Coverage for Virtual Health

Highmark's customer base, both employers and individuals, are demanding access to virtual care options and this demand will continue to grow. To keep pace with demand, Highmark provides a variety of virtual health coverage including, virtual PCP visits, virtual retail clinic visits, virtual behavioral health, specialist virtual visits, teledermatology, and telestroke. Customers of Highmark can also enhance their policy coverage by including access to virtual platforms offering employees access to physicians via smartphone technologies. Highmark's virtual health offerings are based on the quality, effectiveness, and value that such programs provide to our customers and members. Highmark constantly evaluates the virtual health market in order to update offerings as needed.

Senate Bill 780 Specifics

The integrated nature of Highmark and AHN's relationship has allowed each entity to gain greater insight into the roles and responsibilities a provider and insurer have when developing, covering, and reimbursing a virtual health program. Highmark relies on AHN's virtual health expertise to help guide coverage decisions, which is then applied across Highmark's robust provider network. AHN benefits from a greater understanding of the challenges a health insurer faces when determining appropriateness and scope of coverage as well as how to implement and reimburse from an insurance standpoint while also assuring appropriate safeguards to protect against fraud, waste and abuse.

From the insurance perspective, Highmark believes customer demand, technological and medical advances and the evolution of virtual health will drive health insurance coverage. Highmark's existing, comprehensive coverage of virtual is likely to continue growing to meet the needs of our customers. As such, from a pure health insurance perspective, Highmark questions the need for legislation, particularly because a legislative mandate or requirement is not likely to keep pace with the advancement of virtual health.

However, from the health care provider perspective, AHN does experience barriers to effective coverage and reimbursement creating a challenging environment to sustaining an effective virtual health program. One significant barrier is a practice that requires a provider such as AHN to use a specific platform for virtual health. AHN, like many other provider systems, has chosen to develop its own HIPAA and HITECH secure platform rather than rent one from a vendor. In some instances, insurance reimbursement is dependent on the use of a specified, vendor supplied platform—effectively penalizing a health system that develops and maintains its own system. AHN also experiences roadblocks to discussions with certain payers who refuse to engage in discussions or negotiations for virtual health.

Balancing these two experiences from the insurance side and the provider side, Highmark and AHN believe that Senate Bill 780 can provide the necessary framework for virtual health to continually improve the health care delivery system in Pennsylvania. In its current form, though, Senate Bill 780 falls short of improving Pennsylvania's landscape. Highmark and AHN recommend the following changes to Senate Bill 780:

- **Eliminate the anchor to the "in person" setting**—Senate Bill 780 would require health insurers to cover virtual health services if those same services are covered in an in-

person setting. This is the wrong parallel to draw for virtual health—virtual health services should be covered and reimbursed based on the clinical effectiveness (i.e. outcomes) of the service, the security of the virtual health platform and the value that it provides to the patient. In a recent June 2018 article, Judd Hollander, Senior Vice President of Health Care Delivery Innovation at Philadelphia's Thomas Jefferson University and Associate Dean for Strategic Health Initiatives at SJU's Sidney Kimmel Medical College, maintains that trying to find the value proposition by comparing virtual health to an in-person visit is the wrong parallel to draw.³

Further, a Deloitte 2018 survey of physicians notes that "widespread adoption of virtual health care might not be possible until value-based payment models take hold."⁴ If Pennsylvania creates a "just because" standard—i.e. requiring coverage because the same service is covered in-person—it will undermine the move to value based payment. Tying virtual health care to the in-person setting perpetuates the fee-for-service mindset because it would eliminate the ability of health insurers to negotiate with providers for virtual health services at lower or no cost to consumers because of the efficiencies.

The provider community also should be concerned about limiting virtual health to in-person visits. As technology and medicine advances, it is not unrealistic to envision certain health care services only being delivered virtually. Requiring virtual health coverage when the same services are covered in-person could limit insurance coverage and reimbursement when virtual health is the only option.

- **Eliminate the defined list of providers eligible for reimbursement.** Health care providers' ability to use virtual health platforms for care delivery should be driven by their scope of practice and medical advancements, not a legislative requirement. Legislation should neither require reimbursement (or coverage for virtual health) because of the provider type nor should it limit providers that can be reimbursed for virtual health. Senate Bill 780 should simply require health insurers to cover virtual health and reimburse network providers when appropriate—this allows medical practice, clinical appropriateness and customer value to drive such coverage.
- **Prohibit coverage and reimbursement based on the use of a particular platform.** Coverage and reimbursement for virtual health should not be dependent upon the use of a specific platform, penalizing health systems for developing their own system or "renting" a different platform than an insurer would require. The platform should not drive coverage—the medical appropriateness and value to the customer should drive coverage and reimbursement.

Conclusion

As parts of an integrated delivery and financing system, Highmark and AHN appreciate the opportunity to share insight into the public policy discussion surrounding virtual health. The discussion will evolve rapidly, as will the marketplace for virtual health. Pennsylvania should

³ Wicklund, Eric. [mHealthIntelligence](https://mhealthintelligence.com/news/hollander-dont-measure-telehealth-value-against-in-person-healthcare), June 8, 2018 "Hollander: Don't Measure Telehealth Value Against In-Person Healthcare" (<https://mhealthintelligence.com/news/hollander-dont-measure-telehealth-value-against-in-person-healthcare>)

⁴ Deloitte 2018 Survey of US Physicians. "What can health systems do to encourage physicians to embrace virtual care?"

have legislation that encourages insurers and providers to come together to develop appropriate virtual health programs, coverage and reimbursement that is focused on the patient and not tied to artificial constructs such as in-person setting or point in time convenience of coverage.