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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2267 Session of  
2015

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TOPPER, WARD AND YOUNGBLOOD, JULY 21, 2016

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REFERRED TO COMMITTEE ON INSURANCE, JULY 21, 2016

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AN ACT

1 Providing for telemedicine and for insurance coverage.

2 The General Assembly of the Commonwealth of Pennsylvania

3 hereby enacts as follows:

4 Section 1. Short title.

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

7 Section 2. Definitions.

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

11 "Health care practitioner." The term has the same meaning as  
12 is given in section 103 of the act of July 19, 1979 (P.L.130,  
13 No.48), known as the Health Care Facilities Act.

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

17 "Health insurance policy." As follows:

1           (1) An individual or group health insurance policy,  
2 contract or plan that provides medical or health care  
3 coverage by a health care facility or health care  
4 practitioner that is offered by an entity subject to any of  
5 the following:

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

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

11           (iii) Article XXIV of The Insurance Company Law of  
12 1921.

13           (iv) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
14 corporations).

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

17           (2) The term does not include accident only, fixed  
18 indemnity, limited benefit, credit, dental, vision, specified  
19 disease, Medicare supplement, Civilian Health and Medical  
20 Program of the Uniformed Services (CHAMPUS) supplement, long-  
21 term care or disability income, workers' compensation or  
22 automobile medical payment insurance.

23 "Telemedicine." The delivery of health care services  
24 provided through telecommunications technology to a patient by a  
25 health care practitioner who is at a different location. The  
26 term includes an encounter between the patient and provider and  
27 the acquisition, evaluation and transmission of patient  
28 information outside of a real-time interaction, including remote  
29 patient monitoring of medical data. The term does not include  
30 the use of audio-only telephone conversation, facsimile, e-mail,

1 instant messaging, phone text, answers to an online  
2 questionnaire or any combination thereof.

3 Section 3. Licensure of health care practitioner.

4 (a) Requirements.--

5 (1) Except as provided in section 5, the Commonwealth's  
6 health professional boards shall maintain consistent  
7 licensure or certification and standards of care requirements  
8 between in-person and telemedicine-provided practices.

9 (2) A health care practitioner who delivers services  
10 through the use of telemedicine shall be subject to the laws  
11 of this Commonwealth that require licensure, certification or  
12 other authorization to practice a health care profession,  
13 held to the same standard of professional practice as a  
14 similar licensee of the same practice area or specialty that  
15 is providing the same healthcare services through in-person  
16 encounters.

17 (3) Nothing in this section shall be construed as  
18 establishing any new standard of care.

19 (b) Restriction.--The board or licensing entity governing  
20 any health care practitioner covered by this section shall not  
21 establish a more restrictive standard of professional practice  
22 for the practice of telemedicine than that specifically  
23 authorized by the practitioner's practice act or other  
24 specifically applicable statute, including prescribing and  
25 dispensing controlled substances.

26 Section 4. Professional liability coverage.

27 (a) General requirements.--A health care practitioner who  
28 provides a health care service to an individual located in this  
29 Commonwealth through telemedicine shall be subject to the laws  
30 of this Commonwealth that require health care practitioners to

1 maintain professional liability insurance, pay assessments to  
2 the Medical Care Availability and Reduction of Error (Mcare)  
3 Fund or otherwise obtain coverage for medical professional  
4 liability. The requirements shall be the same as the  
5 requirements that are applicable to a health care practitioner  
6 who provides the service through an in-person encounter with the  
7 individual receiving the service or otherwise while located in  
8 this Commonwealth.

9 (b) Telecommunications.--A health care practitioner who  
10 makes a medical treatment recommendation or issues a  
11 prescription to an individual located in this Commonwealth  
12 through a telephone consultation, online platform, Internet  
13 service or mobile application shall be subject to the laws of  
14 this Commonwealth that require health care practitioners to  
15 maintain professional liability insurance, pay assessments to  
16 the Medical Care Availability and Reduction of Error (Mcare)  
17 Fund or obtain coverage for medical professional liability. The  
18 requirements shall be the same as the requirements that are  
19 applicable to a health care practitioner who provides the  
20 service through an in-person encounter with the individual  
21 receiving the service or otherwise while located in this  
22 Commonwealth.

23 (c) Applicable statutes.--Statutes applicable to health care  
24 practitioners under subsections (a) and (b) shall include:

25 (1) Chapter 7 of the act of March 20, 2002 (P.L.154,  
26 No.13), known as the Medical Care Availability and Reduction  
27 of Error (Mcare) Act.

28 (2) Sections 8.5(e) and 8.7 of the act of May 22, 1951  
29 (P.L.317, No.69), known as The Professional Nursing Law.

30 (3) Any law enacted after the effective date of this

1 section that mandates a health care practitioner to maintain  
2 professional liability insurance, pay assessments to the  
3 Medical Care Availability and Reduction of Error (Mcare) Fund  
4 or otherwise obtain coverage for medical professional  
5 liability.

6 Section 5. Evaluation and treatment.

7 (a) Requirements.--Except as provided in subsection (c), a  
8 health care practitioner who provides a health care service to  
9 an individual located in this Commonwealth through telemedicine  
10 shall be subject to and comply with the following:

11 (1) A health care practitioner shall:

12 (i) establish and maintain a practitioner-patient  
13 relationship with the individual in accordance with  
14 subsection (d);

15 (ii) prior to treatment of the individual, provide  
16 an appropriate virtual examination initiated through or  
17 face-to-face consultation using telemedicine technologies  
18 and any peripherals and diagnostic tests necessary to  
19 provide an accurate diagnosis, if an in-person  
20 examination would otherwise be medically appropriate in  
21 the provision of the same service not delivered via  
22 telemedicine, as reasonably determined by the  
23 professional independent judgment, decision making and  
24 discretion of the health care practitioner; or

25 (iii) establish a telemedicine practitioner-patient  
26 relationship that meets standards included in evidence-  
27 based telemedicine clinical practice guidelines developed  
28 by a nationally recognized major medical association for  
29 a specialty whose board is a member of the American Board  
30 of Medical Specialties or the American Osteopathic

1 Association.

2 (2) The same standards of practices applicable to  
3 traditional, in-person health care services shall apply to  
4 treatment and consultation recommendations made via  
5 telemedicine.

6 (3) The health care practitioner shall have an emergency  
7 action plan in place for medical emergencies and referrals  
8 when needed.

9 (b) Compliance.--Except as provided in subsection (c), a  
10 health care practitioner who issues a medical care  
11 recommendation or prescription to an individual located in this  
12 Commonwealth through a telephone consultation, online platform,  
13 Internet service or mobile application shall be subject to  
14 subsection (a) (1).

15 (c) Exceptions.--This section shall not apply to the  
16 following:

17 (1) Consultation by a health care practitioner with  
18 another health care practitioner who has an ongoing  
19 practitioner-patient relationship with the individual that  
20 was established through an in-person or appropriate virtual  
21 examination and agrees to supervise the individual's care.

22 (2) The provision of on-call or cross-coverage health  
23 care services to the active patients of another health care  
24 practitioner in the same specialty, provided that the health  
25 care practitioner whose active patients are being provided  
26 the health care services has designated the exempted health  
27 care practitioner as an on-call or cross-coverage health care  
28 practitioner for his or her active patients.

29 (d) Practitioner-patient relationship.--For purposes of  
30 subsection (a) (1), a practitioner-patient relationship is not

1 established and maintained unless the health care practitioner  
2 satisfies each of the following:

3 (1) Verifies the location and identity of the individual  
4 receiving care each time health care services are provided  
5 through telemedicine.

6 (2) Discloses the health care practitioner's identity  
7 and applicable credentials.

8 (3) Obtains informed consent regarding the use of  
9 telemedicine technologies under section 6 from the individual  
10 or other person acting in a health care decision-making  
11 capacity for the individual.

12 (4) Establishes a diagnosis and treatment plan, as  
13 reasonably determined by the professional independent  
14 judgment, decision making and discretion of the health care  
15 practitioner through the use of patient history, mental  
16 status examination, physical examination or appropriate  
17 virtual face-to-face examination using telecommunications  
18 technology consistent with the definition of "telemedicine"  
19 in section 2, unless prevented by the individual's condition,  
20 appropriate diagnostic and laboratory testing and  
21 identification of underlying condition or contraindications.

22 (5) Recommends one or more options for the individual to  
23 obtain appropriate follow-up care.

24 (6) Provides a visit summary to the individual and  
25 primary care practitioner at the direction of the health care  
26 practitioner or the individual.

27 (e) Prescriptions.--

28 (1) A provider with an established provider-patient  
29 relationship may issue prescription drug orders using  
30 telemedicine with the scope of the provider's license and

1 according to any applicable laws and regulations, including  
2 the applicable legal standard of care.

3 (2) A prescription drug order issued through  
4 telemedicine-provided services shall be considered a legally  
5 valid prescription drug order.

6 (3) A provider may not prescribe a controlled substance  
7 unless it is prescribed in compliance with section 102(54)(a)  
8 of the Comprehensive Drug Abuse Prevention and Control Act of  
9 1970 (Public Law 91-513, 84 Stat. 1236).

10 (f) Construction.--Nothing in this act shall be construed to  
11 expand the prescriptive authority of any provider beyond what is  
12 authorized by the provider's licensing agency or board.

13 Section 6. Informed consent.

14 The health care practitioner utilizing telemedicine to  
15 provide a health care service to an individual located in this  
16 Commonwealth shall comply with applicable Federal and State laws  
17 relating to informed consent. A separate consent for  
18 telemedicine may not be required.

19 Section 7. Privacy practices.

20 A health care practitioner utilizing telemedicine to provide  
21 a health care service to an individual located in this  
22 Commonwealth shall comply with applicable Federal and State laws  
23 relating to medical record documentation and maintenance, as  
24 well as privacy and security of record retention of individually  
25 identifiable health information, including compliance with the  
26 Health Insurance Portability and Accountability Act of 1996  
27 (Public Law 104-191, 110 Stat. 1936) and the Health Information  
28 Technology for Economic and Clinical Health Act (Public Law 115-  
29 5, 123 Stat. 226-279 and 467-496).

30 Section 8. Fraud and abuse.



1 A health care practitioner utilizing telemedicine to provide  
2 a health care service to an individual located in this  
3 Commonwealth shall comply with applicable Federal and State laws  
4 relating to fraud and abuse.

5 Section 9. Coverage of telemedicine services.

6 (a) Insurance coverage and reimbursement.--

7 (1) A health insurance policy issued, delivered,  
8 executed or renewed in this Commonwealth after the effective  
9 date of this section shall provide coverage for covered  
10 health care services consistent with the insurer's medical  
11 criteria for clinical services under the provider's contract.  
12 An insurer, corporation or health maintenance organization  
13 shall reimburse the treating provider or the consulting  
14 provider for the diagnosis, consultation or treatment of the  
15 insured delivered through telemedicine services on the same  
16 basis that the insurer, corporation or health maintenance  
17 organization is responsible for coverage for the provision of  
18 the same service through in-person consultation. Payment for  
19 telemedicine interactions shall include compensation to the  
20 originating site for the transmission cost incurred during  
21 the delivery of health care services.

22 (2) A health insurance policy in effect on the effective  
23 date of this section shall, upon renewal, be amended to  
24 provide coverage for health care services delivered through  
25 telemedicine and on the same basis as the insurer,  
26 corporation or health maintenance organization is responsible  
27 for coverage for the provision of the same service through  
28 in-person consultation or contact under this act.

29 (b) Inclusion.--A health insurance policy may not exclude a  
30 service for coverage solely because the service is provided

1 through telemedicine and is not provided through in-person  
2 consultation or other contact between a health care practitioner  
3 and an individual.

4 (c) Deductibles, copayments and coinsurance.--A health  
5 insurance policy may contain a deductible, copayment or  
6 coinsurance requirement for a health care service provided  
7 through telemedicine.

8 (d) Selection of practitioner.--A health insurance policy  
9 must do the following:

10 (1) Allow the policyholder to choose the participating  
11 health care practitioner that provides covered service  
12 through telemedicine.

13 (2) Disclose to covered individuals their cost-sharing  
14 responsibilities to use telemedicine.

15 (e) Imposition prohibited.--A health insurance policy may  
16 not impose:

17 (1) An annual or lifetime dollar maximum on coverage for  
18 telemedicine-provided service other than an annual or  
19 lifetime dollar maximum that applies in the aggregate to all  
20 items and services covered under the policy.

21 (2) On a person receiving benefits under this section  
22 any deductible, copayment or coinsurance amounts or any  
23 policy year, calendar year, lifetime or other durational  
24 benefit limitation or maximum for benefits or services that  
25 is not equally imposed upon all terms and services covered  
26 under the policy.

27 (f) Utilization review.--Nothing in this act shall be  
28 construed to preclude an entity offering a health insurance  
29 policy from undertaking a utilization review to determine the  
30 appropriateness of telemedicine-provided services, provided that

1 the following requirements are satisfied:

2 (1) The determination is made in the same manner as  
3 utilization review determinations are made for the treatment  
4 of an illness, condition or disorder covered by a policy.

5 (2) A utilization review does not require prior  
6 authorization of the telemedicine services.

7 Section 10. Expansion.

8 Nothing in this act shall be construed as expanding a health  
9 care practitioner's scope of practice subject to State licensure  
10 laws.

11 Section 11. Medicaid program reimbursement.

12 The Department of Human Services shall provide Medical  
13 Assistance coverage and reimbursement, including, but not  
14 limited to, Medical Assistance fee-for-service and HealthChoices  
15 Managed Care, to cover the costs of covered health care services  
16 delivered through telemedicine in accordance with this act.

17 Section 12. Effective date.

18 This act shall take effect in 90 days.