
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1342 Session of
2015

INTRODUCED BY VOGEL, STEFANO, TEPLITZ, ARGALL, RAFFERTY,
BARTOLOTTA, AUMENT, YAW, YUDICHAK, VULAKOVICH, BAKER,
SCAVELLO, MENSCH, SCHWANK, WARD, DINNIMAN AND KILLION,
AUGUST 5, 2016

REFERRED TO BANKING AND INSURANCE, AUGUST 5, 2016

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.

1 "Health insurance policy." As follows:

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

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

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

12 (iii) Article XXIV of The Insurance Company Law of
13 1921.

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

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

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

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

1 the use of audio-only telephone conversation, facsimile, e-mail,
2 instant messaging, phone text, answers to an online
3 questionnaire or any combination thereof.

4 Section 3. Licensure of health care practitioner.

5 (a) Requirements.--Except as provided in section 5, the
6 Commonwealth's health professional boards shall maintain
7 consistent licensure or certification and standards of care
8 requirements between in-person and telemedicine-provided
9 practices. A health care practitioner who delivers services
10 through the use of telemedicine shall be subject to the laws of
11 this Commonwealth that require licensure, certification or other
12 authorization to practice a health care profession, held to the
13 same standard of professional practice as a similar licensee of
14 the same practice area or specialty that is providing the same
15 healthcare services through in-person encounters. Nothing in
16 this section is intended to create any new standards of care.

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

24 Section 4. Professional liability coverage.

25 (a) General requirements.--A health care practitioner who
26 provides a health care service to an individual located in this
27 Commonwealth through telemedicine shall be subject to the laws
28 of this Commonwealth that require health care practitioners to
29 maintain professional liability insurance, pay assessments to
30 the Medical Care Availability and Reduction of Error (Mcare)

1 Fund or otherwise obtain coverage for medical professional
2 liability. The requirements shall be the same as the
3 requirements that are applicable to a health care practitioner
4 who provides the service through an in-person encounter with the
5 individual receiving the service or otherwise while located in
6 this Commonwealth.

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

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

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

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

28 (3) Any law enacted after the effective date of this
29 section that mandates a health care practitioner to maintain
30 professional liability insurance, pay assessments to the

1 Medical Care Availability and Reduction of Error (Mcare) Fund
2 or otherwise obtain coverage for medical professional
3 liability.

4 Section 5. Evaluation and treatment.

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

9 (1) A health care practitioner shall:

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

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

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

30 (2) The same standards of practices applicable to

1 traditional, in-person health care services shall apply to
2 treatment and consultation recommendations made via
3 telemedicine.

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

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

13 (c) Exceptions.--This section shall not apply to the
14 following:

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

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

27 (d) Practitioner-patient relationship.--For purposes of
28 subsection (a)(1), a practitioner-patient relationship is not
29 established and maintained unless the health care practitioner
30 satisfies each of the following:

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

4 (2) Discloses the health care practitioner's identity
5 and applicable credentials.

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

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

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

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

25 (e) Prescriptions.--

26 (1) A provider with an established provider-patient
27 relationship may issue prescription drug orders using
28 telemedicine with the scope of the provider's license and
29 according to any applicable laws and regulations, including
30 the applicable legal standard of care.

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

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

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

11 Section 6. Informed consent.

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

17 Section 7. Privacy practices.

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

28 Section 8. Fraud and abuse.

29 A health care practitioner utilizing telemedicine when
30 providing a health care service to an individual located in this

1 Commonwealth must follow applicable Federal and State laws
2 relating to fraud and abuse.

3 Section 9. Coverage of telemedicine services.

4 (a) Insurance coverage and reimbursement.--

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

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

27 (b) Inclusion.--A health insurance policy may not exclude a
28 service for coverage solely because the service is provided
29 through telemedicine and is not provided through in-person
30 consultation or other contact between a health care practitioner

1 and an individual.

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

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

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

11 (2) Disclose to covered individuals their cost-sharing
12 responsibilities to use telemedicine.

13 (e) Imposition prohibited.--A health insurance policy shall
14 not impose an annual or lifetime dollar maximum on coverage for
15 telemedicine-provided service other than an annual or lifetime
16 dollar maximum that applies in the aggregate to all items and
17 services covered under the policy, and shall not impose upon a
18 person receiving benefits under this section any deductible,
19 copayment or coinsurance amounts or any policy year, calendar
20 year, lifetime or other durational benefit limitation or maximum
21 for benefits or services that is not equally imposed upon all
22 terms and services covered under the policy.

23 (f) Utilization review.--Nothing in this act shall preclude
24 an entity offering a health insurance policy from undertaking a
25 utilization review to determine the appropriateness of
26 telemedicine-provided services, provided that the following
27 requirements are satisfied:

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

1 (2) A utilization review shall not require prior
2 authorization of the telemedicine services.

3 Section 10. Expansion.

4 Nothing in this act shall expand a health care practitioner's
5 scope of practice subject to State licensure laws.

6 Section 11. Medicaid program reimbursement.

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

12 Section 12. Effective date.

13 This act shall take effect in 90 days.