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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 780 Session of  
2017

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INTRODUCED BY VOGEL, YAW, BARTOLOTTA, BREWSTER, MARTIN, AUMENT,  
KILLION, COSTA, VULAKOVICH, RAFFERTY, YUDICHAK, MENSCH,  
BAKER, ARGALL, LANGERHOLC, WHITE, WARD, STEFANO, BLAKE, LEACH  
AND GREENLEAF, JUNE 22, 2017

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REFERRED TO BANKING AND INSURANCE, JUNE 22, 2017

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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 "Ancillary service plans." Any individual or group health  
12 insurance plan, subscriber contract or certificate that provides  
13 exclusive coverage for dental services or vision services.

14 "Health care practitioner." Any of the following:

15 (1) A health care practitioner as defined in section 103  
16 of the act of July 19, 1979 (P.L.130, No.48), known as the

1 Health Care Facilities Act.

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

5 (3) A rural health clinic as defined in section 1861(aa)  
6 (2) of the Social Security Act (49 Stat. 620, 42 U.S.C. §  
7 1395x(aa)(2)).

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

11 "Health insurance policy." As follows:

12 (1) An individual or group health insurance policy,  
13 contract or plan that provides medical or health care  
14 coverage by a health care facility or health care  
15 practitioner that is offered by an entity subject to any of  
16 the following:

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

19 (ii) Article XXIV of The Insurance Company Law of  
20 1921.

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

24 (iv) 40 Pa.C.S. Ch. 61 (relating to hospital plan  
25 corporations).

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

28 (2) The term does not include accident only, fixed  
29 indemnity, limited benefit, credit, specified disease,  
30 Medicare supplement, Civilian Health and Medical Program of

1 the Uniformed Services (CHAMPUS) supplement, long-term care  
2 or disability income, workers' compensation or automobile  
3 medical payment insurance.

4 "Interactive audio." The use of asynchronous store and  
5 forward technology in conjunction with synchronous audio  
6 interaction between a health care practitioner and a patient.

7 "Store and forward technology." Technology that stores and  
8 transmits or grants access to a patient's clinical information  
9 for review by a health care practitioner who is at a different  
10 location.

11 "Telemedicine" or "telehealth." The delivery of health care  
12 services provided through technology to a patient by a health  
13 care practitioner who is at a different location. The term  
14 includes a real-time encounter between the patient and health  
15 care practitioner through interactive audio, video or other  
16 telecommunications or electronic technology and the acquisition,  
17 evaluation and transmission of patient information outside of a  
18 real-time encounter, including store and forward technology and  
19 remote patient monitoring of medical data. The term does not  
20 include the use of audio-only telephone conversation, voicemail,  
21 facsimile, e-mail, instant messaging, text messaging, an online  
22 questionnaire or any combination thereof, nor an automated  
23 computer program used to diagnose or treat ocular or refractive  
24 conditions.

25 Section 3. Licensure of health care practitioner.

26 (a) Requirements.--The Commonwealth's health professional  
27 licensure boards shall maintain consistent licensure or  
28 certification and standards of care requirements between in-  
29 person and telemedicine-provided practices for health care  
30 practitioners. Nothing in this section is intended to create any

1 new standards of care.

2 (b) Rules and regulations.--The board or licensing entity  
3 governing a health care practitioner covered by this section may  
4 promulgate regulations consistent with this act to provide for  
5 and regulate the use of telemedicine in the delivery of health  
6 care services within the scope of practice regulated by the  
7 board or licensing entity. The board or licensing entity shall  
8 not establish a more restrictive standard of professional  
9 practice for the practice of telemedicine than that specifically  
10 authorized by the health care practitioner's practice act or  
11 other specifically applicable statute, including prescribing and  
12 dispensing controlled substances.

13 Section 4. Compliance.

14 A health care practitioner shall comply with all applicable  
15 Federal and State laws and regulations that would apply if the  
16 practitioner were located in this Commonwealth.

17 Section 5. Evaluation and treatment.

18 (a) Requirements.--Except as provided in subsection (b), a  
19 health care practitioner who provides a health care service to  
20 an individual located in this Commonwealth through telemedicine  
21 shall be subject to and comply with the following:

22 (1) A health care practitioner shall:

23 (i) establish a practitioner-patient relationship  
24 with the individual in accordance with subsection (c);

25 (ii) prior to treatment of the individual, provide  
26 an appropriate virtual examination initiated through a  
27 consultation using telemedicine technologies and any  
28 peripherals and diagnostic tests necessary to provide an  
29 accurate diagnosis, if an in-person examination would  
30 otherwise be medically appropriate in the provision of

1 the same service not delivered via telemedicine, as  
2 reasonably determined by the professional independent  
3 judgment of the health care practitioner; or

4 (iii) establish a telemedicine practitioner-patient  
5 relationship that meets standards included in evidence-  
6 based telemedicine clinical practice guidelines.

7 (2) The same standards of care applicable to  
8 traditional, in-person health care services shall apply to  
9 treatment and consultation recommendations made via  
10 telemedicine.

11 (3) A health care practitioner practicing telemedicine  
12 may utilize interactive audio without the requirement of  
13 video if, after access and review of the patient's medical  
14 records, the practitioner determines that the practitioner is  
15 able to meet the same standard of care as if the health care  
16 services were provided in person. The practitioner shall  
17 inform the patient that the patient has the option to request  
18 telemedicine services that include video.

19 (4) The health care practitioner shall have an emergency  
20 action plan in place for medical emergencies and referrals  
21 when needed.

22 (b) Exceptions.--This section shall not apply to the  
23 following:

24 (1) Consultation by a health care practitioner with  
25 another health care practitioner who has an ongoing  
26 practitioner-patient relationship with the individual that  
27 was established through an in-person or appropriate virtual  
28 examination and agrees to supervise the individual's care.

29 (2) The provision of on-call or cross-coverage health  
30 care services to the active patients of another health care

1 practitioner in the same specialty, provided that the health  
2 care practitioner whose active patients are being provided  
3 the health care services has designated the exempted health  
4 care practitioner as an on-call or cross-coverage health care  
5 practitioner for the health care practitioner's active  
6 patients.

7 (c) Practitioner-patient relationship.--For purposes of  
8 subsection (a) (1), a practitioner-patient relationship is  
9 established when the health care practitioner satisfies each of  
10 the following:

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

14 (2) Discloses the health care practitioner's identity,  
15 geographic location and medical specialty or applicable  
16 credentials.

17 (3) Obtains informed consent regarding the use of  
18 telemedicine technologies from the individual or other person  
19 acting in a health care decision-making capacity for the  
20 individual.

21 (4) Establishes a diagnosis and treatment plan, as  
22 reasonably determined by the professional independent  
23 judgment of the health care practitioner.

24 (5) Creates and maintains an electronic medical record  
25 or updates an existing electronic medical record for the  
26 patient within 24 hours. An electronic medical record shall  
27 be maintained in accordance with electronic medical records  
28 privacy rules under the Federal Health Insurance Portability  
29 and Accountability Act of 1996 (Public Law 104-191, 110 Stat.  
30 1936).

1 (6) Provides a visit summary to the individual.

2 Section 6. Coverage of telemedicine services.

3 (a) Insurance coverage and reimbursement.--

4 (1) A health insurance policy or ancillary service plan  
5 issued, delivered, executed or renewed in this Commonwealth  
6 after the effective date of this section shall provide  
7 coverage for health care services consistent with the  
8 insurer's medical policy. A health insurance policy or  
9 ancillary service plan shall not exclude a health care  
10 service for coverage solely because the service is provided  
11 through telemedicine.

12 (2) An insurer, corporation or health maintenance  
13 organization shall reimburse the health care practitioner for  
14 health care services delivered through telemedicine if the  
15 insurer, corporation or health maintenance organization  
16 reimburses for the same service through in-person  
17 consultation. Payment for telemedicine encounters shall be  
18 established between the health care practitioner and insurer.

19 (b) Construction of law.--Nothing in this act shall prohibit  
20 a health insurance policy or ancillary service plan from  
21 providing reimbursement for a health care service delivered  
22 through telemedicine where the same or similar service is not  
23 otherwise eligible for reimbursement when provided through in-  
24 person consultation or other contact between a health care  
25 practitioner and an individual.

26 Section 7. Expansion.

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

29 Section 8. Medicaid program reimbursement.

30 The Department of Human Services shall provide medical

1 assistance coverage and reimbursement, including medical  
2 assistance fee-for-service and managed care programs, for health  
3 care services delivered through telemedicine in accordance with  
4 this act. Nothing in this act shall require the department to  
5 provide reimbursement for health care services ineligible for  
6 reimbursement under medical assistance fee-for-service and  
7 managed care program guidelines established under 42 CFR Ch. IV  
8 Subch. C (relating to medical assistance programs).

9 Section 9. Effective date.

10 This act shall take effect in 90 days.