

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 780 Session of 2017

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

AS AMENDED ON SECOND CONSIDERATION, APRIL 24, 2018

AN ACT

1 ~~Providing for telemedicine and for insurance coverage.~~ <--
2 RELATING TO TELEMEDICINE; AUTHORIZING THE PRACTICE OF <--
3 TELEMEDICINE BY HEALTH CARE PROVIDERS; AND PROVIDING FOR
4 INSURANCE COVERAGE OF TELEMEDICINE.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 ~~Section 1. Short title.~~ <--

8 ~~This act shall be known and may be cited as the Telemedicine-~~
9 ~~Act.~~

10 ~~Section 2. Definitions.~~

11 ~~The following words and phrases when used in this act shall-~~
12 ~~have the meanings given to them in this section unless the-~~
13 ~~context clearly indicates otherwise:~~

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-~~
17 ~~Health Care Facilities Act.~~

18 ~~(2) A federally qualified health center as defined in-~~

1 ~~section 1861(aa) (4) of the Social Security Act (49 Stat. 620,~~  
2 ~~42 U.S.C. § 1395x(aa) (4)).~~

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

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

9 ~~"Health insurance policy." As follows:~~

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

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

17 ~~(ii) Article XXIV of The Insurance Company Law of~~  
18 ~~1921.~~

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

22 ~~(iv) 40 Pa.C.S. Ch. 61 (relating to hospital plan~~  
23 ~~corporations).~~

24 ~~(v) 40 Pa.C.S. Ch. 63 (relating to professional~~  
25 ~~health services plan corporations).~~

26 ~~(2) The term includes an individual or group health~~  
27 ~~insurance policy, contract or plan that provides dental or~~  
28 ~~vision coverage through a provider network.~~

29 ~~(3) Except as provided in paragraph (2), the term does~~  
30 ~~not include accident only, fixed indemnity, limited benefit,~~

1 ~~credit, dental, vision, specified disease, Medicare~~  
2 ~~supplement, Civilian Health and Medical Program of the~~  
3 ~~Uniformed Services (CHAMPUS) supplement, long term care or~~  
4 ~~disability income, workers' compensation or automobile~~  
5 ~~medical payment insurance.~~

6 ~~"Telemedicine" or "telehealth." The delivery of health care~~  
7 ~~services provided through synchronous or asynchronous~~  
8 ~~technology, including, but not limited to, remote patient~~  
9 ~~monitoring, to a patient by a health care practitioner who is at~~  
10 ~~a different location. The term does not include the use of~~  
11 ~~audio only telephone conversation, voicemail, facsimile, e mail,~~  
12 ~~instant messaging, text messaging, an online questionnaire or~~  
13 ~~any combination thereof.~~

14 ~~Section 3. Licensure of health care practitioners.~~

15 ~~(a) Requirements.~~

16 ~~(1) Health care practitioners practicing telemedicine in~~  
17 ~~this Commonwealth shall be licensed, certified or registered~~  
18 ~~by the appropriate Commonwealth health professional licensure~~  
19 ~~board.~~

20 ~~(2) The Commonwealth's health professional licensure~~  
21 ~~boards shall maintain consistent licensure, certification or~~  
22 ~~registration and standards of care requirements between in-~~  
23 ~~person and telemedicine provided practices for health care~~  
24 ~~practitioners. Nothing in this section is intended to create~~  
25 ~~any new standards of care.~~

26 ~~(3) Nothing in this act is intended to expand a health~~  
27 ~~care practitioner's scope of practice subject to State~~  
28 ~~licensure laws.~~

29 ~~(b) Rules and regulations. The board or licensing entity~~  
30 ~~governing a health care practitioner covered by this section may~~

1 ~~promulgate regulations consistent with this act to provide for~~  
2 ~~and regulate the use of telemedicine within the scope of~~  
3 ~~practice regulated by the board or licensing entity. The board~~  
4 ~~or licensing entity shall not establish a more restrictive~~  
5 ~~standard of professional practice for the practice of~~  
6 ~~telemedicine than that specifically authorized by the health~~  
7 ~~care practitioner's practice act or other specifically~~  
8 ~~applicable statute.~~

9 ~~Section 4. Compliance.~~

10 ~~A health care practitioner using telemedicine shall comply~~  
11 ~~with all applicable Federal and State laws and regulations that~~  
12 ~~would apply if the practitioner were located in this~~  
13 ~~Commonwealth.~~

14 ~~Section 5. Evaluation and treatment.~~

15 ~~(a) Requirements. Except as provided in subsection (b), a~~  
16 ~~health care practitioner who provides telemedicine to an~~  
17 ~~individual located in this Commonwealth shall be subject to and~~  
18 ~~comply with the following:~~

19 ~~(1) A health care practitioner shall~~  
20 ~~establish a practitioner patient relationship with~~  
21 ~~the individual as part of the telemedicine service in~~  
22 ~~accordance with subsection (c) and shall, prior to~~  
23 ~~treatment of the individual, provide an appropriate~~  
24 ~~virtual examination initiated through a consultation~~  
25 ~~using telemedicine technologies and any peripherals and~~  
26 ~~diagnostic tests necessary to provide an accurate~~  
27 ~~diagnosis, if an in person examination would otherwise be~~  
28 ~~medically appropriate in the provision of the same~~  
29 ~~service not delivered via telemedicine, as reasonably~~  
30 ~~determined by the professional independent judgment of~~

1           ~~the health care practitioner~~

2           ~~.~~

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

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

14           ~~(4) Practitioners providing online refractive services~~  
15 ~~shall inform patients that the service is not an ocular~~  
16 ~~health exam. This paragraph shall not be construed to~~  
17 ~~prohibit online refractive services if the information is~~  
18 ~~clearly and conspicuously communicated to the patient prior~~  
19 ~~to the online refractive service.~~

20           ~~(b) Exceptions. This section shall not apply to the~~  
21 ~~following:~~

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

27           ~~(2) The provision of on call or cross coverage health~~  
28 ~~care services to the active patients of another health care~~  
29 ~~practitioner in the same specialty, provided that the health~~  
30 ~~care practitioner whose active patients are being provided~~

1 ~~the health care services has designated the exempted health-~~  
2 ~~care practitioner as an on-call or cross-coverage health care-~~  
3 ~~practitioner for the health care practitioner's active-~~  
4 ~~patients.~~

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

9 ~~(1) Verifies the location and identity of the individual~~  
10 ~~receiving care each time telemedicine is provided.~~

11 ~~(2) Discloses the health care practitioner's identity,~~  
12 ~~geographic location and medical specialty or applicable~~  
13 ~~credentials.~~

14 ~~(3) Obtains informed consent regarding the use of~~  
15 ~~telemedicine technologies from the individual or other person~~  
16 ~~acting in a health care decision making capacity for the~~  
17 ~~individual.~~

18 ~~(4) Establishes a diagnosis and treatment plan.~~

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

26 ~~(6) Provides a visit summary to the individual.~~

27 ~~Section 6. Coverage of telemedicine.~~

28 ~~(a) Insurance coverage and reimbursement.~~

29 ~~(1) A health insurance policy issued, delivered,~~  
30 ~~executed or renewed in this Commonwealth after the effective~~

1 ~~date of this section shall provide coverage for telemedicine~~  
2 ~~consistent with the insurer's medical policy. A health~~  
3 ~~insurance policy shall not exclude a health care service for~~  
4 ~~coverage solely because the service is provided through~~  
5 ~~telemedicine.~~

6 ~~(2) An insurer, corporation or health maintenance~~  
7 ~~organization shall reimburse the health care practitioner for~~  
8 ~~telemedicine if the insurer, corporation or health~~  
9 ~~maintenance organization reimburses for the same service~~  
10 ~~through in person consultation. Payment for telemedicine~~  
11 ~~encounters shall be established between the health care~~  
12 ~~practitioner and insurer.~~

13 ~~(b) Construction of law. Nothing in this act shall prohibit~~  
14 ~~a health insurance policy from providing reimbursement for~~  
15 ~~telemedicine where the same or similar service is not otherwise~~  
16 ~~eligible for reimbursement when provided through in person~~  
17 ~~consultation or other contact between a health care practitioner~~  
18 ~~and an individual.~~

19 ~~Section 7. Medicaid program reimbursement.~~

20 ~~The Department of Human Services shall provide medical~~  
21 ~~assistance coverage and reimbursement, including medical~~  
22 ~~assistance fee for service and managed care programs, for~~  
23 ~~telemedicine in accordance with this act. Nothing in this act~~  
24 ~~shall require the department to provide reimbursement for~~  
25 ~~telemedicine that is ineligible for reimbursement under medical~~  
26 ~~assistance fee for service and managed care program guidelines~~  
27 ~~established under 42 CFR Ch. IV Subch. C (relating to medical~~  
28 ~~assistance programs).~~

29 ~~Section 8. Effective date.~~

30 ~~This act shall take effect in 90 days.~~

1 SECTION 1. SHORT TITLE.

2 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE TELEMEDICINE  
3 ACT.

4 SECTION 2. DEFINITIONS.

5 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL  
6 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE  
7 CONTEXT CLEARLY INDICATES OTHERWISE:

8 "AUDIO-ONLY MEDIUM." A PRERECORDED AUDIO PRESENTATION OR  
9 RECORDING.

10 "CONSULTATION." THE ACT OF SEEKING ASSISTANCE FROM ANOTHER  
11 HEALTH CARE PROVIDER FOR DIAGNOSTIC STUDIES, THERAPEUTIC  
12 INTERVENTIONS OR OTHER SERVICES THAT MAY BENEFIT THE PATIENT OF  
13 A HEALTH CARE PROVIDER WHO HAS AN ONGOING PROVIDER-PATIENT  
14 RELATIONSHIP WITH THE INDIVIDUAL.

15 "HEALTH CARE PROVIDER" OR "PROVIDER." ANY OF THE FOLLOWING:

16 (1) A HEALTH CARE PRACTITIONER AS DEFINED IN SECTION 103  
17 OF THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE  
18 HEALTH CARE FACILITIES ACT.

19 (2) A FEDERALLY QUALIFIED HEALTH CENTER AS DEFINED IN  
20 SECTION 1861(AA)(4) OF THE SOCIAL SECURITY ACT (49 STAT. 620,  
21 42 U.S.C. § 1395X(AA)(4)).

22 (3) A RURAL HEALTH CLINIC AS DEFINED IN SECTION 1861(AA)  
23 (2) OF THE SOCIAL SECURITY ACT (42 U.S.C. § 1395X(AA)(2)).

24 (4) A PHARMACIST LICENSED UNDER THE ACT OF SEPTEMBER 27,  
25 1961 (P.L.1700, NO.699), KNOWN AS THE PHARMACY ACT.

26 (5) AN OCCUPATIONAL THERAPIST LICENSED UNDER THE ACT OF  
27 JUNE 15, 1982 (P.L.502, NO.140), KNOWN AS THE OCCUPATIONAL  
28 THERAPY PRACTICE ACT.

29 (6) A SPEECH-LANGUAGE PATHOLOGIST LICENSED UNDER THE ACT  
30 OF DECEMBER 21, 1984 (P.L.1253, NO.238), KNOWN AS THE SPEECH-



1 LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS LICENSURE ACT.

2 (7) AN AUDIOLOGIST LICENSED UNDER THE SPEECH-LANGUAGE  
3 PATHOLOGISTS AND AUDIOLOGISTS LICENSURE ACT.

4 (8) A DENTAL HYGIENIST LICENSED UNDER THE ACT OF MAY 1,  
5 1933 (P.L.216, NO.76), KNOWN AS THE DENTAL LAW.

6 (9) A SOCIAL WORKER, CLINICAL SOCIAL WORKER, MARRIAGE  
7 AND FAMILY THERAPIST OR PROFESSIONAL COUNSELOR LICENSED UNDER  
8 THE ACT OF JULY 9, 1987 (P.L.220, NO.39), KNOWN AS THE SOCIAL  
9 WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL  
10 COUNSELORS ACT.

11 (10) A REGISTERED NURSE LICENSED UNDER THE ACT OF MAY  
12 22, 1951 (P.L.317, NO.69), KNOWN AS THE PROFESSIONAL NURSING  
13 LAW.

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:

18 (1) AN INDIVIDUAL OR GROUP HEALTH INSURANCE POLICY,  
19 CONTRACT OR PLAN THAT PROVIDES COVERAGE FOR SERVICES PROVIDED  
20 BY A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER THAT IS  
21 OFFERED BY A HEALTH INSURER.

22 (2) THE TERM INCLUDES AN INDIVIDUAL OR GROUP HEALTH  
23 INSURANCE POLICY, CONTRACT OR PLAN THAT PROVIDES DENTAL OR  
24 VISION COVERAGE THROUGH A PROVIDER NETWORK.

25 (3) EXCEPT AS PROVIDED IN PARAGRAPH (2), THE TERM DOES  
26 NOT INCLUDE ACCIDENT ONLY, FIXED INDEMNITY, LIMITED BENEFIT,  
27 CREDIT, DENTAL, VISION, SPECIFIED DISEASE, MEDICARE  
28 SUPPLEMENT, CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE  
29 UNIFORMED SERVICES (CHAMPUS) SUPPLEMENT, LONG-TERM CARE OR  
30 DISABILITY INCOME, WORKERS' COMPENSATION OR AUTOMOBILE

1 MEDICAL PAYMENT INSURANCE.

2 "HEALTH INSURER." AN ENTITY LICENSED BY THE INSURANCE  
3 DEPARTMENT WITH ACCIDENT AND HEALTH AUTHORITY TO ISSUE A HEALTH  
4 INSURANCE POLICY AND GOVERNED UNDER ANY OF THE FOLLOWING:

5 (1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS  
6 THE INSURANCE COMPANY LAW OF 1921, INCLUDING SECTION 630 AND  
7 ARTICLE XXIV.

8 (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),  
9 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

10 (3) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN  
11 CORPORATIONS).

12 (4) 40 PA.C.S. CH. 63 (RELATING TO PROFESSIONAL HEALTH  
13 SERVICES PLAN CORPORATIONS).

14 "INTERACTIVE AUDIO AND VIDEO." REAL-TIME TWO-WAY OR  
15 MULTIPLE-WAY COMMUNICATION BETWEEN A HEALTH CARE PROVIDER AND A  
16 PATIENT.

17 "LICENSURE BOARD." EACH LICENSING BOARD WITHIN THE BUREAU OF  
18 PROFESSIONAL AND OCCUPATIONAL AFFAIRS OF THE DEPARTMENT OF STATE  
19 WITH JURISDICTION OVER A PROFESSIONAL LICENSEE IDENTIFIED AS A  
20 HEALTH CARE PROVIDER UNDER THIS ACT.

21 "MEDICAL EMERGENCY." A CONDITION WHEREIN AN INDIVIDUAL IS  
22 UNCONSCIOUS OR THE PROBABILITY OF HARM TO AN INDIVIDUAL BECAUSE  
23 OF FAILURE TO TREAT IS GREAT AND SURPASSES ANY THREATENED HARM  
24 FROM THE TREATMENT ITSELF.

25 "ON-CALL OR CROSS-COVERAGE SERVICES." THE PROVISION OF  
26 TELEMEDICINE BY A HEALTH CARE PROVIDER DESIGNATED BY ANOTHER  
27 PROVIDER WITH A PROVIDER-PATIENT RELATIONSHIP TO DELIVER  
28 SERVICES SO LONG AS THE DESIGNATED PROVIDER IS IN THE SAME GROUP  
29 OR HEALTH SYSTEM, HAS ACCESS TO THE PATIENT'S PRIOR MEDICAL  
30 RECORDS AND IS IN A POSITION TO COORDINATE CARE.

1 "STORE-AND-FORWARD." TECHNOLOGY THAT STORES AND TRANSMITS OR  
2 GRANTS ACCESS TO A PATIENT'S CLINICAL INFORMATION FOR REVIEW BY  
3 A HEALTH CARE PROVIDER WHO IS AT A DIFFERENT LOCATION.

4 "TELEMEDICINE." THE DELIVERY OF HEALTH CARE SERVICES  
5 PROVIDED THROUGH TECHNOLOGY, INCLUDING, BUT NOT LIMITED TO,  
6 INTERACTIVE AUDIO OR VIDEO, STORE-AND-FORWARD AND REMOTE PATIENT  
7 MONITORING, TO A PATIENT BY A HEALTH CARE PROVIDER WHO IS AT A  
8 DIFFERENT LOCATION. THE TERM DOES NOT INCLUDE THE USE OF AUDIO-  
9 ONLY MEDIUM, VOICEMAIL, FACSIMILE, E-MAIL, INSTANT MESSAGING,  
10 TEXT MESSAGING, ONLINE QUESTIONNAIRE OR ANY COMBINATION THEREOF.

11 SECTION 3. PRACTICE OF TELEMEDICINE BY HEALTH CARE PROVIDERS.

12 (A) REQUIREMENTS.--

13 (1) A HEALTH CARE PROVIDER LICENSED, CERTIFIED OR  
14 REGISTERED BY A COMMONWEALTH PROFESSIONAL LICENSURE BOARD  
15 SHALL BE AUTHORIZED TO PRACTICE TELEMEDICINE IN ACCORDANCE  
16 WITH THIS ACT AND THE CORRESPONDING LICENSURE BOARD  
17 REGULATIONS.

18 (2) A HEALTH CARE PROVIDER WHO ENGAGES IN TELEMEDICINE  
19 IN A MANNER THAT DOES NOT COMPLY WITH THE STANDARDS OF CARE  
20 OR RULES OF PRACTICE SHALL BE SUBJECT TO DISCIPLINE BY THE  
21 APPROPRIATE LICENSURE BOARD, AS PROVIDED BY LAW.

22 (B) REGULATIONS.--EACH LICENSURE BOARD SHALL WITHIN 24  
23 MONTHS OF THE EFFECTIVE DATE OF THIS SECTION PROMULGATE  
24 REGULATIONS CONSISTENT WITH THIS ACT TO PROVIDE FOR AND REGULATE  
25 TELEMEDICINE WITHIN THE SCOPE OF PRACTICE AND STANDARD OF CARE  
26 REGULATED BY THE BOARD. THE REGULATIONS SHALL:

27 (1) CONSIDER MODEL POLICIES FOR THE APPROPRIATE USE OF  
28 TELEMEDICINE TECHNOLOGIES.

29 (2) INCLUDE PATIENT PRIVACY AND DATA SECURITY STANDARDS  
30 THAT ARE IN COMPLIANCE WITH THE FEDERAL HEALTH INSURANCE

1 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-  
2 191, 110 STAT. 1936) AND THE HEALTH INFORMATION TECHNOLOGY  
3 FOR ECONOMIC AND CLINICAL HEALTH ACT (PUBLIC LAW 111-5, 123  
4 STAT. 226-279 AND 467-496).

5 (C) TEMPORARY REGULATIONS.--IN ORDER TO FACILITATE THE  
6 PROMPT IMPLEMENTATION OF THIS ACT, THE LICENSURE BOARDS SHALL  
7 PUBLISH TEMPORARY REGULATIONS REGARDING IMPLEMENTATION OF THIS  
8 ACT IN THE PENNSYLVANIA BULLETIN WITHIN 60 DAYS OF THE EFFECTIVE  
9 DATE OF THIS SECTION. TEMPORARY REGULATIONS ARE NOT SUBJECT TO:

10 (1) SECTIONS 201, 202, 203, 204 AND 205 OF THE ACT OF  
11 JULY 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE  
12 COMMONWEALTH DOCUMENTS LAW.

13 (2) SECTIONS 204(B) AND 301(10) OF THE ACT OF OCTOBER  
14 15, 1980 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH  
15 ATTORNEYS ACT.

16 (3) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS  
17 THE REGULATORY REVIEW ACT.

18 (4) SECTION 612 OF THE ACT OF APRIL 9, 1929 (P.L.177,  
19 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

20 (D) EXPIRATION.--TEMPORARY REGULATIONS SHALL EXPIRE NO LATER  
21 THAN 24 MONTHS FOLLOWING PUBLICATION OF TEMPORARY REGULATIONS.  
22 REGULATIONS ADOPTED AFTER THIS PERIOD SHALL BE PROMULGATED AS  
23 PROVIDED BY LAW.

24 (E) CONSTRUCTION.--THE PROVISIONS OF THIS ACT SHALL BE IN  
25 FULL FORCE AND EFFECT EVEN IF THE LICENSURE BOARDS HAVE NOT YET  
26 PUBLISHED TEMPORARY REGULATIONS OR IMPLEMENTED THE REGULATIONS  
27 REQUIRED UNDER THIS SECTION.

28 SECTION 4. COMPLIANCE.

29 A HEALTH CARE PROVIDER ENGAGING IN TELEMEDICINE SHALL COMPLY  
30 WITH ALL APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS.

1 SECTION 5. EVALUATION AND TREATMENT.

2 (A) REQUIREMENTS.--EXCEPT AS PROVIDED IN SUBSECTION (C), A  
3 HEALTH CARE PROVIDER WHO PROVIDES TELEMEDICINE TO AN INDIVIDUAL  
4 LOCATED IN THIS COMMONWEALTH SHALL, PRIOR TO TREATMENT OF THE  
5 INDIVIDUAL, ESTABLISH A PROVIDER-PATIENT RELATIONSHIP WITH THE  
6 INDIVIDUAL THAT INCLUDES THE FOLLOWING:

7 (1) VERIFYING THE LOCATION AND IDENTITY OF THE  
8 INDIVIDUAL RECEIVING CARE EACH TIME TELEMEDICINE IS PROVIDED.

9 (2) DISCLOSING THE HEALTH CARE PROVIDER'S IDENTITY,  
10 GEOGRAPHIC LOCATION AND MEDICAL SPECIALTY OR APPLICABLE  
11 CREDENTIALS.

12 (3) OBTAINING INFORMED CONSENT REGARDING THE USE OF  
13 TELEMEDICINE TECHNOLOGIES FROM THE INDIVIDUAL OR OTHER PERSON  
14 ACTING IN A HEALTH CARE DECISION-MAKING CAPACITY FOR THE  
15 INDIVIDUAL. THE INDIVIDUAL OR OTHER PERSON ACTING IN A HEALTH  
16 CARE DECISION-MAKING CAPACITY, INCLUDING THE PARENT OR LEGAL  
17 GUARDIAN OF A CHILD IN ACCORDANCE WITH THE ACT OF FEBRUARY  
18 13, 1970 (P.L.19, NO.10), ENTITLED "AN ACT ENABLING CERTAIN  
19 MINORS TO CONSENT TO MEDICAL, DENTAL AND HEALTH SERVICES,  
20 DECLARING CONSENT UNNECESSARY UNDER CERTAIN CIRCUMSTANCES,"  
21 HAS THE RIGHT TO CHOOSE THE FORM OF SERVICE DELIVERY, WHICH  
22 INCLUDES THE RIGHT TO REFUSE TELEMEDICINE SERVICES WITHOUT  
23 JEOPARDIZING THE INDIVIDUAL'S ACCESS TO OTHER AVAILABLE  
24 SERVICES.

25 (4) PROVIDING AN APPROPRIATE VIRTUAL EXAMINATION OR  
26 ASSESSMENT USING TELEMEDICINE TECHNOLOGIES AND ANY  
27 PERIPHERALS AND DIAGNOSTIC TESTS NECESSARY FOR AN ACCURATE  
28 DIAGNOSIS OR CARE MANAGEMENT IF THE EXAMINATION OR ASSESSMENT  
29 WOULD OTHERWISE BE MEDICALLY APPROPRIATE IN AN IN-PERSON  
30 ENCOUNTER. THE HEALTH CARE PROVIDER MAY UTILIZE INTERACTIVE

1 AUDIO WITHOUT THE REQUIREMENT OF INTERACTIVE VIDEO IF, AFTER  
2 ACCESS AND REVIEW OF THE PATIENT'S MEDICAL RECORDS, THE  
3 PROVIDER DETERMINES THAT THE PROVIDER IS ABLE TO MEET THE  
4 SAME STANDARDS OF CARE AS IF THE HEALTH CARE SERVICES WERE  
5 PROVIDED IN PERSON. THE PROVIDER SHALL INFORM THE PATIENT  
6 THAT THE PATIENT HAS THE OPTION TO REQUEST INTERACTIVE AUDIO  
7 AND VIDEO.

8 (5) ESTABLISHING A DIAGNOSIS AND TREATMENT PLAN OR  
9 EXECUTING A TREATMENT PLAN.

10 (6) CREATING AND MAINTAINING AN ELECTRONIC MEDICAL  
11 RECORD OR UPDATING AN EXISTING ELECTRONIC MEDICAL RECORD FOR  
12 THE PATIENT WITHIN 24 HOURS. AN ELECTRONIC MEDICAL RECORD  
13 SHALL BE MAINTAINED IN ACCORDANCE WITH ELECTRONIC MEDICAL  
14 RECORDS PRIVACY RULES UNDER THE FEDERAL HEALTH INSURANCE  
15 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (PUBLIC LAW 104-  
16 191, 110 STAT. 1936).

17 (7) PROVIDING A VISIT SUMMARY TO THE INDIVIDUAL IF  
18 REQUESTED.

19 (8) HAVING AN EMERGENCY ACTION PLAN IN PLACE FOR MEDICAL  
20 AND BEHAVIORAL HEALTH EMERGENCIES AND REFERRALS.

21 (B) DISCLOSURES.--PROVIDERS OFFERING ONLINE REFRACTIVE  
22 SERVICES SHALL INFORM PATIENTS THAT THE SERVICE IS NOT AN OCULAR  
23 HEALTH EXAM. THIS SUBSECTION SHALL NOT BE CONSTRUED TO PROHIBIT  
24 ONLINE REFRACTIVE SERVICES IF THE INFORMATION NOTICE IS CLEARLY  
25 AND CONSPICUOUSLY COMMUNICATED TO THE PATIENT PRIOR TO THE  
26 ONLINE REFRACTIVE SERVICE.

27 (C) EXCEPTIONS TO PROVIDER-PATIENT RELATIONSHIP  
28 REQUIREMENTS.--SUBSECTION (A) DOES NOT APPLY TO THE FOLLOWING:

29 (1) CONSULTATIONS.

30 (2) ON-CALL OR CROSS-COVERAGE SERVICES.

1 (3) MEDICAL EMERGENCY.

2 SECTION 6. INSURANCE COVERAGE OF TELEMEDICINE.

3 (A) INSURANCE COVERAGE AND REIMBURSEMENT.--

4 (1) A HEALTH INSURANCE POLICY ISSUED, DELIVERED,  
5 EXECUTED OR RENEWED IN THIS COMMONWEALTH AFTER THE EFFECTIVE  
6 DATE OF THIS SECTION SHALL PROVIDE COVERAGE FOR TELEMEDICINE  
7 DELIVERED BY A PARTICIPATING NETWORK PROVIDER CONSISTENT WITH  
8 THE INSURER'S MEDICAL POLICIES. A HEALTH INSURANCE POLICY MAY  
9 NOT EXCLUDE A HEALTH CARE SERVICE FOR COVERAGE SOLELY BECAUSE  
10 THE SERVICE IS PROVIDED THROUGH TELEMEDICINE WITH THE SAME  
11 PROVIDER.

12 (2) A HEALTH INSURER SHALL REIMBURSE A HEALTH CARE  
13 PROVIDER THAT IS A PARTICIPATING PROVIDER IN ITS NETWORK FOR  
14 TELEMEDICINE IF THE HEALTH INSURER REIMBURSES THE SAME  
15 PARTICIPATING PROVIDER FOR THE SAME SERVICE THROUGH AN IN-  
16 PERSON ENCOUNTER. THE STANDARD OF CARE AND RULES OF PRACTICE  
17 APPLICABLE TO AN IN-PERSON ENCOUNTER SHALL APPLY TO A  
18 TELEMEDICINE ENCOUNTER. PAYMENT FOR TELEMEDICINE ENCOUNTERS  
19 SHALL BE ESTABLISHED BETWEEN THE HEALTH CARE PROVIDER AND  
20 HEALTH INSURER.

21 (B) APPLICABILITY.--THIS SECTION APPLIES AS FOLLOWS:

22 (1) SUBSECTION (A) (2) DOES NOT APPLY IF THE  
23 TELEMEDICINE-ENABLING DEVICE, TECHNOLOGY OR SERVICE FAILS TO  
24 COMPLY WITH APPLICABLE LAW AND REGULATORY GUIDANCE REGARDING  
25 THE SECURE TRANSMISSION AND MAINTENANCE OF PATIENT  
26 INFORMATION.

27 (2) FOR A HEALTH INSURANCE POLICY FOR WHICH EITHER RATES  
28 OR FORMS ARE REQUIRED TO BE FILED WITH THE FEDERAL GOVERNMENT  
29 OR THE INSURANCE DEPARTMENT, THIS SECTION SHALL APPLY TO A  
30 POLICY FOR WHICH A FORM OR RATE IS FIRST FILED ON OR AFTER

1 THE EFFECTIVE DATE OF THIS SECTION.

2 (3) FOR A HEALTH INSURANCE POLICY FOR WHICH NEITHER  
3 RATES NOR FORMS ARE REQUIRED TO BE FILED WITH THE FEDERAL  
4 GOVERNMENT OR THE INSURANCE DEPARTMENT, THIS SECTION SHALL  
5 APPLY TO A POLICY ISSUED OR RENEWED ON OR AFTER 180 DAYS  
6 AFTER THE EFFECTIVE DATE OF THIS SECTION.

7 (C) CONSTRUCTION.--NOTHING IN THIS ACT SHALL PROHIBIT A  
8 HEALTH INSURER FROM PROVIDING REIMBURSEMENT FOR TELEMEDICINE  
9 WHERE THE SAME OR SIMILAR SERVICE IS NOT OTHERWISE ELIGIBLE FOR  
10 REIMBURSEMENT WHEN PROVIDED THROUGH AN IN-PERSON ENCOUNTER OR  
11 OTHER CONTACT BETWEEN A HEALTH CARE PROVIDER AND AN INDIVIDUAL.  
12 SECTION 7. MEDICAID PROGRAM REIMBURSEMENT.

13 THE DEPARTMENT OF HUMAN SERVICES SHALL PROVIDE MEDICAL  
14 ASSISTANCE COVERAGE AND PAYMENT FOR TELEMEDICINE IN ACCORDANCE  
15 WITH THIS ACT. NOTHING IN THIS ACT SHALL REQUIRE THE DEPARTMENT  
16 OF HUMAN SERVICES TO PROVIDE COVERAGE FOR SERVICES THAT WOULD  
17 NOT BE COVERED IF DELIVERED THROUGH AN IN-PERSON ENCOUNTER OR  
18 FOR SERVICES THAT ARE INCONSISTENT WITH FEDERAL FINANCIAL  
19 PARTICIPATION REQUIREMENTS FOR THE SPECIFIC SERVICE OR FOR  
20 TELEMEDICINE.

21 SECTION 8. EFFECTIVE DATE.

22 THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

23 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT IN 90  
24 DAYS:

25 (I) SECTION 6.

26 (II) SECTION 7.

27 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT  
28 IMMEDIATELY.