
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 780 Session of
2017

INTRODUCED BY VOGEL, YAW, BARTOLOTTA, BREWSTER, MARTIN, AUMENT,
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LEACH, GREENLEAF, BROWNE, STREET AND SCHWANK, JUNE 22, 2017

AS REPORTED FROM COMMITTEE ON PROFESSIONAL LICENSURE, HOUSE OF
REPRESENTATIVES, AS AMENDED, SEPTEMBER 24, 2018

AN ACT

1 Relating to telemedicine; authorizing the regulation of
2 telemedicine by professional licensing boards; and providing
3 for insurance coverage of telemedicine.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Telemedicine
8 Act.

9 Section 2. Definitions.

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

13 "Audio-only medium." A prerecorded audio presentation or
14 recording.

15 "Emergency medical condition." A medical condition
16 manifesting itself by acute symptoms of sufficient severity,

1 including severe pain, such that the absence of immediate
2 medical attention could reasonably be expected to result in
3 placing the health of the individual in serious jeopardy,
4 serious impairment to bodily functions or serious dysfunction of
5 a bodily organ or part.

6 "Health care provider" or "provider." Any of the following:

7 (1) A health care practitioner as defined in section 103
8 of the act of July 19, 1979 (P.L.130, No.48), known as the
9 Health Care Facilities Act.

10 (2) A federally qualified health center as defined in
11 section 1861(aa)(4) of the Social Security Act (49 Stat. 620,
12 42 U.S.C. § 1395x(aa)(4)).

13 (3) A rural health clinic as defined in section 1861(aa)
14 (2) of the Social Security Act (42 U.S.C. § 1395x(aa)(2)).

15 (4) A pharmacist who holds a valid license under the act
16 of September 27, 1961 (P.L.1700, No.699), known as the
17 Pharmacy Act.

18 (5) An occupational therapist who holds a valid license
19 under the act of June 15, 1982 (P.L.502, No.140), known as
20 the Occupational Therapy Practice Act.

21 (6) A speech-language pathologist who holds a valid
22 license under the act of December 21, 1984 (P.L.1253,
23 No.238), known as the Speech-Language Pathologists and
24 Audiologists Licensure Act.

25 (7) An audiologist who holds a valid license under the
26 Speech-Language Pathologists and Audiologists Licensure Act.

27 (8) A dental hygienist who holds a valid license under
28 the act of May 1, 1933 (P.L.216, No.76), known as The Dental
29 Law.

30 (9) A social worker, clinical social worker, marriage

1 and family therapist or professional counselor who holds a
2 valid license under the act of July 9, 1987 (P.L.220, No.39),
3 known as the Social Workers, Marriage and Family Therapists
4 and Professional Counselors Act.

5 (10) A registered nurse who holds a valid license under
6 the act of May 22, 1951 (P.L.317, No.69), known as The
7 Professional Nursing Law.

8 (11) A GENETIC COUNSELOR WHO HOLDS A VALID LICENSE UNDER <--
9 THE ACT OF DECEMBER 20, 1985 (P.L.457, NO.112), KNOWN AS THE
10 MEDICAL PRACTICE ACT OF 1985, OR THE ACT OF OCTOBER 5, 1978
11 (P.L.1109, NO.261), KNOWN AS THE OSTEOPATHIC MEDICAL PRACTICE
12 ACT.

13 ~~(11)~~ (12) An out-of-State health care provider. <--
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 Information Technology for Economic and Clinical
18 Health Act." The Health Information Technology for Economic and
19 Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and
20 467-496).

21 "Health insurance policy." As follows:

22 (1) An individual or group health insurance policy,
23 contract or plan that provides coverage for services provided
24 by a health care facility or health care provider that is
25 offered by a health insurer.

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 under paragraph (2), the term
30 does not include accident only, fixed indemnity, limited

1 benefit, 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 "Health Insurance Portability and Accountability Act of
7 1996." The Health Insurance Portability and Accountability Act
8 of 1996 (Public Law 104-191, 110 Stat. 1936).

9 "Health insurer." An entity that holds a valid license by
10 the Insurance Department with accident and health authority to
11 issue a health insurance policy and governed under any of the
12 following:

13 (1) The act of May 17, 1921 (P.L.682, No.284), known as
14 The Insurance Company Law of 1921, including section 630 and
15 Article XXIV.

16 (2) The act of December 29, 1972 (P.L.1701, No.364),
17 known as the Health Maintenance Organization Act.

18 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
19 corporations).

20 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
21 services plan corporations).

22 "Interactive audio and video." Real-time two-way or
23 multiple-way communication between a health care provider and a
24 patient.

25 "Licensure board." Each licensing board within the Bureau of
26 Professional and Occupational Affairs of the Department of State
27 with jurisdiction over a professional licensee identified as a
28 health care provider under this act.

29 "On-call or cross-coverage services." The provision of
30 telemedicine by a health care provider designated by another

1 provider with a provider-patient relationship to deliver
2 services on a temporary basis so long as the designated provider
3 is in the same group or health system, has access to the
4 patient's prior medical records, holds a valid license in this
5 Commonwealth and is in a position to coordinate care.

6 "Out-of-State health care provider." A health care provider
7 providing a telemedicine service that holds a valid license,
8 certificate or registration in another jurisdiction and is:

9 (1) discharging official duties in the armed forces of
10 the United States, the United States Public Health Services
11 or the United States Department of Veterans Affairs;

12 (2) providing telemedicine services to a patient through
13 a federally operated facility;

14 (3) providing telemedicine services in response to an
15 emergency medical condition, if the care for the patient is
16 referred to an appropriate health care provider in this
17 Commonwealth as promptly as possible under the circumstances;

18 (4) providing provider-to-provider consultation
19 services; or

20 (5) providing services which would otherwise be exempt
21 from the requirement of licensure, certification or
22 registration in this Commonwealth under the respective
23 licensure act.

24 "Participating network provider." Any of the following
25 providers who are under contract with a health insurer:

26 (1) A physician who holds a valid license under the act
27 of December 20, 1985 (P.L.457, No.112), known as the Medical
28 Practice Act of 1985, or the act of October 5, 1978

29 (P.L.1109, No.261), known as the Osteopathic Medical Practice
30 Act.

1 (2) A clinical nurse specialist or certified registered
2 nurse practitioner who holds a valid license under the act of
3 May 22, 1951 (P.L.317, No.69), known as The Professional
4 Nursing Law.

5 (3) A physician assistant who holds a valid license
6 under the Medical Practice Act of 1985 OR THE OSTEOPATHIC <--
7 MEDICAL PRACTICE ACT.

8 (4) A dentist who holds a valid license under the act of
9 May 1, 1933 (P.L.216, No.76), known as The Dental Law.

10 (5) An optometrist who holds a valid license under the
11 act of June 6, 1980 (P.L.197, No.57), known as the Optometric
12 Practice and Licensure Act.

13 (6) A psychologist who holds a valid license under the
14 act of March 23, 1972 (P.L.136, No.52), known as the
15 Professional Psychologists Practice Act.

16 (7) A social worker, clinical social worker, MARRIAGE <--
17 AND FAMILY THERAPIST or professional counselor who holds a
18 valid license under the act of July 9, 1987 (P.L.220, No.39),
19 known as the Social Workers, Marriage and Family Therapists
20 and Professional Counselors Act.

21 (8) An occupational therapist who holds a valid license
22 under the act of June 15, 1982 (P.L.502, No.140), known as
23 the Occupational Therapy Practice Act.

24 ~~(9) A physical therapist who holds a valid license under <--~~
25 ~~the act of October 10, 1975 (P.L.383, No.110), known as the~~
26 ~~Physical Therapy Practice Act.~~

27 (9) A PODIATRIST WHO HOLDS A VALID LICENSE UNDER THE ACT <--
28 OF MARCH 2, 1956 (1955 P.L.1206, NO.375), KNOWN AS THE
29 PODIATRY PRACTICE ACT.

30 "Provider-to-provider consultation." The ~~informal~~ act of <--

1 seeking advice and recommendations from another health care
2 provider for diagnostic studies, therapeutic interventions or
3 other services that may benefit the patient of the initiating
4 health care provider.

5 "Store-and-forward." Technology that stores and transmits or
6 grants access to a patient's clinical information for review by
7 a health care provider who is at a different location. THE TERM <--
8 DOES NOT INCLUDE THE STORAGE, TRANSMISSION OR USE OF ELECTRONIC
9 MEDICAL RECORDS WITHOUT THE CONCURRENT TRANSMISSION OF
10 ADDITIONAL CLINICAL INFORMATION NOT ALREADY PRESENT IN THE
11 ELECTRONIC MEDICAL RECORDS.

12 "Telemedicine." The delivery of health care services
13 provided through telemedicine technologies to a patient by a
14 health care provider who is at a different location. The term
15 does not include a provider-to-provider consultation.

16 "Telemedicine technologies." As follows:

17 (1) Electronic information and telecommunications
18 technology, including, but not limited to, interactive audio
19 and video, remote patient monitoring or store-and-forward,
20 that meets the requirements of the Health Insurance
21 Portability and Accountability Act of 1996, the Health
22 Information Technology for Economic and Clinical Health Act
23 or other applicable Federal or State law.

24 (2) The term does not include the use of:

25 (i) Audio-only medium, voicemail, facsimile, e-mail,
26 instant messaging, text messaging or online
27 questionnaire, or any combination thereof.

28 (ii) A telephone call, except as provided under
29 section 5(a)(3).

30 Section 3. Regulation of telemedicine by professional licensure

1 boards.

2 (a) Requirements.--

3 (1) A health care provider that holds a valid license,
4 certificate or registration from a Commonwealth professional
5 licensure board shall be authorized to practice telemedicine
6 in accordance with this act and the corresponding licensure
7 board regulations.

8 (2) A health care provider who engages in telemedicine
9 in a manner that does not comply with the standards of care
10 or rules of practice shall be subject to discipline by the
11 appropriate licensure board, as provided by law.

12 (b) Regulations.--Each licensure board shall within 24
13 months of the effective date of this section promulgate FINAL <--
14 regulations that are consistent with this act to provide for and
15 regulate telemedicine within the scope of practice and standard
16 of care regulated by the board. THE REGULATIONS SHALL NOT <--
17 ESTABLISH A SEPARATE STANDARD OF CARE FOR TELEMEDICINE. THE
18 STANDARD OF CARE APPLICABLE TO AN IN-PERSON ENCOUNTER SHALL
19 APPLY TO A TELEMEDICINE ENCOUNTER. The regulations shall:

20 (1) Consider model policies AND CLINICAL GUIDELINES for <--
21 the appropriate use of telemedicine technologies.

22 (2) Include patient privacy and data security standards
23 that are in compliance with the Health Insurance Portability
24 and Accountability Act of 1996 and the Health Information
25 Technology for Economic and Clinical Health Act.

26 (c) Temporary regulations.--In order to facilitate the
27 prompt implementation of this act, the licensure boards shall
28 publish temporary regulations regarding implementation of this
29 act in the Pennsylvania Bulletin within 120 days of the
30 effective date of this section. Temporary regulations are not

1 subject to:

2 (1) Sections 201, 202, 203, 204 and 205 of the act of
3 July 31, 1968 (P.L.769, No.240), referred to as the
4 Commonwealth Documents Law.

5 (2) Sections 204(b) and 301(10) of the act of October
6 15, 1980 (P.L.950, No.164), known as the Commonwealth
7 Attorneys Act.

8 (3) The act of June 25, 1982 (P.L.633, No.181), known as
9 the Regulatory Review Act.

10 (4) Section 612 of the act of April 9, 1929 (P.L.177,
11 No.175), known as The Administrative Code of 1929.

12 (d) Expiration.--Temporary regulations shall expire no later
13 than 24 months following publication of temporary regulations.
14 Regulations adopted after this period shall be promulgated as
15 provided by law.

16 (e) Construction.--The provisions of this act shall be in
17 full force and effect even if the licensure boards have not yet
18 published temporary regulations or implemented the regulations
19 required under this section.

20 Section 4. Compliance.

21 A health care provider providing telemedicine services to an
22 individual located within this Commonwealth shall comply with
23 all applicable Federal and State laws and regulations, and shall
24 hold a valid license, certificate or registration by an
25 appropriate Commonwealth licensure board. Failure to hold a
26 valid license, certificate or registration shall subject the
27 health care provider to discipline by the respective licensure
28 board for unlicensed practice.

29 Section 5. Evaluation and treatment.

30 (a) Requirements.--Except as provided under subsection (c),

1 a health care provider who provides telemedicine to an
2 individual located in this Commonwealth shall comply with the
3 following:

4 (1) For a telemedicine encounter in which the provider
5 does not have an established provider-patient relationship,
6 the provider shall:

7 (i) verify the location and identity of the
8 individual receiving care; and

9 (ii) disclose the health care provider's identity,
10 geographic location and medical specialty or applicable
11 credentials.

12 (2) Obtain 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 (3) Provide an appropriate examination or assessment
26 using telemedicine technologies. The health care provider may
27 utilize interactive audio without the requirement of
28 interactive video if it is used in conjunction with store-
29 and-forward technology and, after access and review of the
30 patient's medical records, the provider determines that the

1 provider is able to meet the same standards of care as if the
2 health care services were provided in person. ~~The~~ WHEN THE <--
3 HEALTH CARE PROVIDER UTILIZES INTERACTIVE AUDIO WITHOUT
4 INTERACTIVE VIDEO, THE provider shall inform the patient that
5 the patient has the option to request interactive audio and
6 video.

7 (4) Establish a diagnosis and treatment plan or execute
8 a treatment plan.

9 (5) Create and maintain an electronic medical record or
10 update an existing electronic medical record for the patient
11 within 24 hours. An electronic medical record shall be
12 maintained in accordance with electronic medical records
13 privacy rules under the Health Insurance Portability and
14 Accountability Act of 1996.

15 (6) Provide a visit summary to the individual if
16 requested.

17 (7) Have an emergency action plan in place for medical
18 and behavioral health emergencies and referrals.

19 (8) THE STANDARD OF CARE APPLICABLE TO AN IN-PERSON <--
20 ENCOUNTER SHALL APPLY TO A TELEMEDICINE ENCOUNTER. IF THE USE
21 OF TELEMEDICINE WOULD BE INCONSISTENT WITH THE STANDARD OF
22 CARE, THE HEALTH CARE PROVIDER SHALL DIRECT THE PATIENT TO
23 SEEK IN-PERSON CARE.

24 (b) Disclosures.--Providers offering online refractive
25 services shall inform patients that the service is not an ocular
26 health exam. This subsection shall not be construed to prohibit
27 online refractive services if the information notice is clearly
28 and conspicuously communicated to the patient prior to the
29 online refractive service.

30 (c) Applicability.--

1 (1) Subsection (a)(1) shall not apply to on-call or
2 cross-coverage services.

3 (2) Subsection (a)(1) and (2) shall not apply to an
4 emergency medical condition.

5 Section 6. Insurance coverage of telemedicine.

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 MEDICALLY <--
10 NECESSARY telemedicine delivered by a participating network
11 provider who provides a covered service via telemedicine
12 consistent with the insurer's medical policies. A health
13 insurance policy may not exclude a health care service for
14 coverage solely because the service is provided through
15 telemedicine.

16 (2) ~~A SUBJECT TO PARAGRAPH (1),~~ A health insurer shall <--
17 reimburse a health care provider that is a participating
18 network provider for telemedicine if the health insurer
19 reimburses the same participating provider for the same
20 service through an in-person encounter. ~~The standard of care <--
21 and rules of practice applicable to an in person encounter
22 shall apply to a telemedicine encounter.~~ REIMBURSEMENT SHALL <--
23 NOT BE CONDITIONED UPON THE USE OF AN EXCLUSIVE OR
24 PROPRIETARY TELEMEDICINE TECHNOLOGY OR VENDOR.

25 (3) Payment for a covered service provided via
26 telemedicine by any PARTICIPATING network provider shall be <--
27 established between the health care provider and health
28 insurer.

29 (b) Applicability.--This section shall apply as follows:

30 (1) Subsection (a)(1) and (2) shall not apply if the

1 telemedicine service is facilitated via a medical device or
2 other technology that provides clinical data or information,
3 excluding existing information in an electronic medical
4 records system, other than that independently provided
5 through interactive audio ~~or video or written input from~~ AND <--
6 VIDEO WITH, OR STORE-AND-FORWARD IMAGING PROVIDED BY, the
7 patient.

8 (2) For a health insurance policy for which either rates
9 or forms are required to be filed with the Federal Government
10 or the Insurance Department, this section shall apply to a
11 policy for which a form or rate is first filed on or after
12 180 DAYS AFTER the effective date of this section. <--

13 (3) For a health insurance policy for which neither
14 rates nor forms are required to be filed with the Federal
15 Government or the Insurance Department, this section shall
16 apply to a policy issued or renewed on or after 180 days
17 after the effective date of this section.

18 (c) Construction.--Nothing under this section shall be
19 construed to:

20 (1) Prohibit a health insurer from reimbursing other
21 providers for covered services provided via telemedicine.

22 (2) Require a health insurer to reimburse an out-of-
23 network provider for telemedicine.

24 Section 7. Medicaid program reimbursement.

25 (a) Medical assistance payment.--Medical assistance payments
26 shall be made on behalf of eligible individuals for
27 telemedicine, consistent with Federal law, as specified under
28 this act if the service would be covered through an in-person
29 encounter.

30 (b) Applicability.--Subsection (a) does not apply if:

1 (1) the telemedicine-enabling device, technology or
2 service fails to comply with applicable law and regulatory
3 guidance regarding the secure transmission and maintenance of
4 patient information; or

5 (2) the provision of the service using telemedicine
6 would be inconsistent with the standard of care.

7 Section 8. Effective date.

8 This act shall take effect as follows:

9 ~~(1) The following provisions shall take effect in 90~~ <--
10 ~~days.~~

11 ~~(i) Section 6.~~

12 ~~(ii) Section 7.~~

13 (1) SECTION 6 SHALL TAKE EFFECT UPON PUBLICATION IN THE <--
14 PENNSYLVANIA BULLETIN OF THE TEMPORARY REGULATIONS REQUIRED
15 IN SECTION 3(C).

16 (2) SECTION 7 SHALL TAKE EFFECT IN 90 DAYS.

17 ~~(2)~~ (3) The remainder of this act shall take effect <--
18 immediately.