
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 15 Session of
2019

INTRODUCED BY READSHAW, HARRIS, SCHLOSSBERG, McNEILL, FREEMAN,
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DALEY, KENYATTA, KORTZ, HELM AND STRUZZI, MARCH 5, 2019

REFERRED TO COMMITTEE ON INSURANCE, MARCH 5, 2019

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,
17 including severe pain, such that the absence of immediate

1 medical attention could reasonably be expected to result in
2 placing the health of the individual in serious jeopardy,
3 serious impairment to bodily functions or serious dysfunction of
4 a bodily organ or part.

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

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

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

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

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

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

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

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

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

29 (9) A social worker, clinical social worker, marriage
30 and family therapist or professional counselor who holds a

1 valid license under the act of July 9, 1987 (P.L.220, No.39),
2 known as the Social Workers, Marriage and Family Therapists
3 and Professional Counselors Act.

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

7 (11) A genetic counselor who holds a valid license under
8 the act of December 20, 1985 (P.L.457, No.112), known as the
9 Medical Practice Act of 1985, or the act of October 5, 1978
10 (P.L.1109, No.261), known as the Osteopathic Medical Practice
11 Act.

12 (12) An out-of-State health care provider.

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

16 "Health Information Technology for Economic and Clinical
17 Health Act." The Health Information Technology for Economic and
18 Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and
19 467-496).

20 "Health insurance policy." As follows:

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

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

28 (3) Except as provided under paragraph (2), the term
29 does not include accident only, fixed indemnity, limited
30 benefit, credit, dental, vision, specified disease, Medicare

1 supplement, Civilian Health and Medical Program of the
2 Uniformed Services (CHAMPUS) supplement, long-term care or
3 disability income, workers' compensation or automobile
4 medical payment insurance.

5 "Health Insurance Portability and Accountability Act of
6 1996." The Health Insurance Portability and Accountability Act
7 of 1996 (Public Law 104-191, 110 Stat. 1936).

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

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

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

17 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
18 corporations).

19 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
20 services plan corporations).

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

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

28 "On-call or cross-coverage services." The provision of
29 telemedicine by a health care provider designated by another
30 provider with a provider-patient relationship to deliver

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

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

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

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

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

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

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

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

25 (1) A physician who holds a valid license under the
26 Medical Practice Act of 1985 or the Osteopathic Medical
27 Practice Act.

28 (2) A clinical nurse specialist or certified registered
29 nurse practitioner who holds a valid license under The
30 Professional Nursing Law.

1 (3) A physician assistant who holds a valid license
2 under the Medical Practice Act of 1985 or the Osteopathic
3 Medical Practice Act.

4 (4) A dentist who holds a valid license under The Dental
5 Law.

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

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

12 (7) A social worker, clinical social worker, marriage
13 and family therapist or professional counselor who holds a
14 valid license under the Social Workers, Marriage and Family
15 Therapists and Professional Counselors Act.

16 (8) An occupational therapist who holds a valid license
17 under the Occupational Therapy Practice Act.

18 (9) A physical therapist who holds a valid license under
19 the act of October 10, 1975 (P.L.383, No.110), known as the
20 Physical Therapy Practice Act.

21 (10) A podiatrist who holds a valid license under the
22 act of March 2, 1956 (1955 P.L.1206, No.375), known as the
23 Podiatry Practice Act.

24 "Provider-to-provider consultation." The act of seeking
25 advice and recommendations from another health care provider for
26 diagnostic studies, therapeutic interventions or other services
27 that may benefit the patient of the initiating health care
28 provider.

29 "Store-and-forward." Technology that stores and transmits or
30 grants access to a patient's clinical information for review by

1 a health care provider who is at a different location. The term
2 does not include the storage, transmission or use of electronic
3 medical records without the concurrent transmission of
4 additional clinical information not already present in the
5 electronic medical records.

6 "Telemedicine." The delivery of health care services
7 provided through telemedicine technologies to a patient by a
8 health care provider who is at a different location. The term
9 does not include a provider-to-provider consultation.

10 "Telemedicine technologies." As follows:

11 (1) Electronic information and telecommunications
12 technology, including, but not limited to, interactive audio
13 and video, remote patient monitoring or store-and-forward,
14 that meets the requirements of the Health Insurance
15 Portability and Accountability Act of 1996, the Health
16 Information Technology for Economic and Clinical Health Act
17 or other applicable Federal or State law.

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

19 (i) Audio-only medium, voicemail, facsimile, e-mail,
20 instant messaging, text messaging or online
21 questionnaire, or any combination thereof.

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

24 Section 3. Regulation of telemedicine by professional licensure
25 boards.

26 (a) Requirements.--

27 (1) A health care provider that holds a valid license,
28 certificate or registration from a Commonwealth professional
29 licensure board shall be authorized to practice telemedicine
30 in accordance with this act and the corresponding licensure

1 board regulations.

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

6 (b) Regulations.--Each licensure board shall within 24
7 months of the effective date of this section promulgate final
8 regulations that are consistent with this act to provide for and
9 regulate telemedicine within the scope of practice and standard
10 of care regulated by the board. The regulations shall not
11 establish a separate standard of care for telemedicine. The
12 standard of care applicable to an in-person encounter shall
13 apply to a telemedicine encounter. The regulations shall:

14 (1) Consider model policies and clinical guidelines for
15 the appropriate use of telemedicine technologies.

16 (2) Include patient privacy and data security standards
17 that are in compliance with the Health Insurance Portability
18 and Accountability Act of 1996 and the Health Information
19 Technology for Economic and Clinical Health Act.

20 (c) Temporary regulations.--In order to facilitate the
21 prompt implementation of this act, the licensure boards shall
22 publish temporary regulations regarding implementation of this
23 act in the Pennsylvania Bulletin within 120 days of the
24 effective date of this section. Temporary regulations are not
25 subject to:

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

29 (2) Sections 204(b) and 301(10) of the act of October
30 15, 1980 (P.L.950, No.164), known as the Commonwealth

1 Attorneys Act.

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

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

6 (d) Expiration.--Temporary regulations shall expire no later
7 than 24 months following publication of temporary regulations.
8 Regulations adopted after this period shall be promulgated as
9 provided by law.

10 Section 4. Compliance.

11 A health care provider providing telemedicine services to an
12 individual located within this Commonwealth shall comply with
13 all applicable Federal and State laws and regulations and shall
14 hold a valid license, certificate or registration by an
15 appropriate Commonwealth licensure board. Failure to hold a
16 valid license, certificate or registration shall subject the
17 health care provider to discipline by the respective licensure
18 board for unlicensed practice.

19 Section 5. Evaluation and treatment.

20 (a) Requirements.--Except as provided under subsection (c),
21 a health care provider who provides telemedicine to an
22 individual located within this Commonwealth shall comply with
23 the following:

24 (1) For a telemedicine encounter in which the provider
25 does not have an established provider-patient relationship,
26 the provider shall:

27 (i) verify the location and identity of the
28 individual receiving care; and

29 (ii) disclose the health care provider's identity,
30 geographic location and medical specialty or applicable

1 credentials.

2 (2) Obtain informed consent regarding the use of
3 telemedicine technologies from the individual or other person
4 acting in a health care decision-making capacity for the
5 individual. The individual or other person acting in a health
6 care decision-making capacity, including the parent or legal
7 guardian of a child in accordance with the act of February
8 13, 1970 (P.L.19, No.10), entitled "An act enabling certain
9 minors to consent to medical, dental and health services,
10 declaring consent unnecessary under certain circumstances,"
11 has the right to choose the form of service delivery, which
12 includes the right to refuse telemedicine services without
13 jeopardizing the individual's access to other available
14 services.

15 (3) Provide an appropriate examination or assessment
16 using telemedicine technologies. The health care provider may
17 utilize interactive audio without the requirement of
18 interactive video if it is used in conjunction with store-
19 and-forward technology and, after access and review of the
20 patient's medical records, the provider determines that the
21 provider is able to meet the same standards of care as if the
22 health care services were provided in person. When the health
23 care provider utilizes interactive audio without interactive
24 video, the provider shall inform the patient that the patient
25 has the option to request interactive audio and video.

26 (4) Establish a diagnosis and treatment plan or execute
27 a treatment plan.

28 (5) Create and maintain an electronic medical record or
29 update an existing electronic medical record for the patient
30 within 24 hours. An electronic medical record shall be

1 maintained in accordance with electronic medical records
2 privacy rules under the Health Insurance Portability and
3 Accountability Act of 1996.

4 (6) Provide a visit summary to the individual if
5 requested.

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

8 (8) The standard of care applicable to an in-person
9 encounter shall apply to a telemedicine encounter. If the use
10 of telemedicine would be inconsistent with the standard of
11 care, the health care provider shall direct the patient to
12 seek in-person care.

13 (b) Disclosures.--Providers offering online refractive
14 services shall inform patients that the service is not an ocular
15 health exam. This subsection shall not be construed to prohibit
16 online refractive services if the information notice is clearly
17 and conspicuously communicated to the patient prior to the
18 online refractive service.

19 (c) Applicability.--

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

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

24 Section 6. Insurance coverage of telemedicine.

25 (a) Insurance coverage and reimbursement.--

26 (1) A health insurance policy issued, delivered,
27 executed or renewed in this Commonwealth after the effective
28 date of this section shall provide coverage for medically
29 necessary telemedicine delivered by a participating network
30 provider if the policy provides coverage for the same covered

1 service when delivered in person by the same provider. Any
2 additional terms of coverage for medically necessary
3 telemedicine shall be consistent with the insurer's medical
4 policies. A health insurance policy may not exclude a health
5 care service for coverage or otherwise deny coverage as not
6 medically necessary solely because the service is provided
7 through telemedicine.

8 (2) Subject to paragraph (1), a health insurer shall
9 reimburse a health care provider that is a participating
10 network provider for telemedicine provided in accordance with
11 the terms and conditions of the network participation
12 agreement between the insurer and the participating provider.
13 Reimbursement shall not be conditioned upon the use of an
14 exclusive or proprietary telemedicine technology or platform.

15 (3) Payment for a covered service provided via
16 telemedicine by any participating network provider shall be
17 established between the health care provider and health
18 insurer.

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

20 (1) Subsection (a) (1) and (2) shall not apply if the
21 telemedicine service is facilitated via a medical device or
22 other technology that provides clinical data or information,
23 excluding existing information in an electronic medical
24 records system, other than that independently provided
25 through interactive audio and video with, or store-and-
26 forward imaging provided by, the patient.

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 at least 180

1 days after 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 at least 180 days after
6 the effective date of this section.

7 (c) Construction.--Nothing under this section shall be
8 construed to:

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

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

13 Section 7. Medicaid program reimbursement.

14 (a) Medical assistance payment.--Medical assistance payments
15 shall be made on behalf of eligible individuals for
16 telemedicine, consistent with Federal law, as specified under
17 this act if the service would be covered through an in-person
18 encounter.

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

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

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

26 Section 8. Effective date.

27 This act shall take effect as follows:

28 (1) Section 6 shall take effect upon publication in the
29 Pennsylvania Bulletin of the temporary regulations required
30 in section 3(c).

1 (2) Section 7 shall take effect in 90 days.

2 (3) The remainder of this act shall take effect
3 immediately.