
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1573 Session of
2021

INTRODUCED BY DAY, R. BROWN, SCHLEGEL CULVER, DUNBAR, HILL-
EVANS, HOHENSTEIN, M. MACKENZIE, R. MACKENZIE, MIZGORSKI,
N. NELSON, ROTHMAN, ROWE, SANKEY, STAMBAUGH, STRUZZI, THOMAS
AND WHEELAND, JUNE 8, 2021

REFERRED TO COMMITTEE ON INSURANCE, JUNE 8, 2021

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 Services
10 or 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 act
26 of December 20, 1985 (P.L.457, No.112), known as the Medical
27 Practice Act of 1985, or the act of October 5, 1978
28 (P.L.1109, No.261), known as the Osteopathic Medical Practice
29 Act.

30 (2) A clinical nurse specialist or certified registered

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

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

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

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

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

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

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

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

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

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. The term
4 does not include the storage, transmission or use of electronic
5 medical records without the concurrent transmission of
6 additional clinical information not already present in the
7 electronic medical records.

8 "Telemedicine." The delivery of health care services
9 provided through telemedicine technologies, including
10 asynchronous telemedicine technologies, to a patient by a health
11 care provider who is at a different location. The term does not
12 include a provider-to-provider consultation.

13 "Telemedicine technologies." As follows:

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

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

22 (i) Audio-only medium, voicemail, facsimile, e-mail,
23 instant messaging, text messaging or online
24 questionnaire, or any combination thereof.

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

27 Section 3. Regulation of telemedicine by professional licensure
28 boards.

29 (a) Requirements.--

30 (1) A health care provider that holds a valid license,

1 certificate or registration from a Commonwealth professional
2 licensure board shall be authorized to practice telemedicine
3 in accordance with this act and the corresponding licensure
4 board regulations.

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

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

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

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

23 (c) Temporary regulations.--In order to facilitate the
24 prompt implementation of this act, the licensure boards shall
25 transmit notice of temporary regulations regarding
26 implementation of this act to the Legislative Reference Bureau
27 for publication in the Pennsylvania Bulletin within 120 days of
28 the effective date of this section. Temporary regulations are
29 not subject to:

30 (1) Sections 201, 202, 203, 204 and 205 of the act of

1 July 31, 1968 (P.L.769, No.240), referred to as the
2 Commonwealth Documents Law.

3 (2) Sections 204(b) and 301(10) of the act of October
4 15, 1980 (P.L.950, No.164), known as the Commonwealth
5 Attorneys Act.

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

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

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

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

18 Section 4. Compliance.

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

27 Section 5. Evaluation and treatment.

28 (a) Requirements.--Except as provided under subsection (c),
29 a health care provider who provides telemedicine to an
30 individual located in this Commonwealth shall comply with the

1 following:

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

5 (i) verify the location and identity of the
6 individual receiving care; and

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

10 (2) Obtain informed consent regarding the use of
11 telemedicine technologies from the individual or other person
12 acting in a health care decision-making capacity for the
13 individual. The individual or other person acting in a health
14 care decision-making capacity, including the parent or legal
15 guardian of a child in accordance with the act of February
16 13, 1970 (P.L.19, No.10), entitled "An act enabling certain
17 minors to consent to medical, dental and health services,
18 declaring consent unnecessary under certain circumstances,"
19 has the right to choose the form of service delivery, which
20 includes the right to refuse telemedicine services without
21 jeopardizing the individual's access to other available
22 services.

23 (3) Provide an appropriate examination or assessment
24 using telemedicine technologies. The health care provider may
25 utilize interactive audio without the requirement of
26 interactive video if it is used in conjunction with store-
27 and-forward technology and, after access and review of the
28 patient's medical records, the provider determines that the
29 provider is able to meet the same standards of care as if the
30 health care services were provided in person. When the health

1 care provider utilizes interactive audio without interactive
2 video, the provider shall inform the patient that the patient
3 has the option to request interactive audio and video.

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

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

12 (6) Provide a visit summary to the individual if
13 requested.

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

16 (8) The standard of care applicable to an in-person
17 encounter shall apply to a telemedicine encounter. If the use
18 of telemedicine would be inconsistent with the standard of
19 care, the health care provider shall direct the patient to
20 seek in-person care.

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) Applicability.--

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

30 (2) Subsection (a) (1) and (2) shall not apply to an

1 emergency medical condition.

2 (d) Limitations on treatment.--Telemedicine services or
3 technologies shall not be permitted to be utilized or employed
4 for the delivery or administration of any medications or health
5 care services, including, but not limited to, the dispensing,
6 administering or prescribing of medications or the performance
7 of services, which are, as of the effective date of this
8 subsection, required to be delivered or administered in a health
9 care clinic, medical facility, physician's office, hospital or
10 ambulatory surgical facility, according to Federal or State
11 statute, regulation or promulgated regulatory rule or by the
12 United States Food and Drug Administration Risk Evaluation and
13 Mitigation Strategies (REMS).

14 Section 6. Insurance coverage of telemedicine.

15 (a) Insurance coverage and reimbursement.--

16 (1) A health insurance policy issued, delivered,
17 executed or renewed in this Commonwealth after the effective
18 date of this section shall provide coverage for medically
19 necessary telemedicine delivered by a participating network
20 provider who provides a covered service via telemedicine
21 consistent with the insurer's medical policies. A health
22 insurance policy may not exclude a health care service for
23 coverage solely because the service is provided through
24 telemedicine.

25 (2) Subject to paragraph (1), a health insurer shall
26 reimburse a health care provider that is a participating
27 network provider for both in-person and telemedicine services
28 in accordance with the terms and conditions of the network
29 participation agreement between the insurer and the
30 participating provider. Reimbursement shall not be

1 conditioned upon the use of an exclusive telemedicine
2 platform or telemedicine vendor.

3 (3) Payment for a covered service provided via
4 telemedicine by any participating network provider shall be
5 established between the health care provider and health
6 insurer.

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

8 (1) Subsection (a)(1) and (2) shall not apply if the
9 telemedicine service is facilitated via a medical device or
10 other technology that provides clinical data or information,
11 excluding existing information in an electronic medical
12 records system, other than that independently provided
13 through interactive audio and video with, or store-and-
14 forward imaging provided by, the patient.

15 (2) For a health insurance policy for which either rates
16 or forms are required to be filed with the Federal Government
17 or the Insurance Department, this section shall apply to a
18 policy for which a form or rate is first filed on or after
19 180 days after the effective date of this section.

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

25 (c) Construction.--Nothing under this section shall be
26 construed to:

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

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

1 Section 7. Medicaid program reimbursement.

2 (a) Medical assistance payment.--Medical assistance payments
3 shall be made on behalf of eligible individuals for
4 telemedicine, consistent with Federal law, as specified under
5 this act if the service would be covered through an in-person
6 encounter.

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

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

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

14 Section 8. Effective date.

15 This act shall take effect as follows:

16 (1) Section 6 shall take effect upon publication in the
17 Pennsylvania Bulletin of the temporary regulations required
18 in section 3(c).

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

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